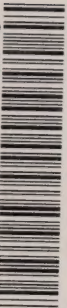


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Implementation Plan for the Westbank First Nation Self-Government Agreement



The French language translation of this document is included for information purposes only. It has not been approved by Westbank First Nation.

The English language version of this document is the only official version.

La version française de ce document est fournie à titre de renseignement seulement. Il s'agit d'une traduction qui n'a pas été entérinée par la Première nation de Westbank. Seule la version anglaise de ce document est officielle.



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de la Première nation de Westbank

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IMPLEMENTATION PLAN
FOR THE
WESTBANK FIRST NATION SELF-GOVERNMENT AGREEMENT

BETWEEN:

WESTBANK FIRST NATION, as represented by the Chief and Councillors of Westbank First Nation, hereinafter referred to as “Westbank”

AND

HER MAJESTY THE QUEEN in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development, hereinafter referred to as “Canada”.

WHEREAS the Final Agreement requires the Parties, prior to the ratification of the Final Agreement, to establish an Implementation Plan to guide the Parties on the implementation of the Westbank First Nation Self-Government Final Agreement.

THEREFORE THE PARTIES AGREE TO THE FOLLOWING AS THE IMPLEMENTATION PLAN:

PURPOSE

The objective of the Implementation Plan is to facilitate the timely and efficient fulfilment of the obligations set out in the Final Agreement and in doing so, provide the opportunity for a smooth transition at Westbank from a First Nation government pursuant to the *Indian Act* to a new self-government regime based upon the Final Agreement.

COMMENCEMENT AND TERM

This is the Implementation Plan required by the Implementation Part of the Westbank First Nation Self-Government Agreement.

The Implementation Plan comes into effect on the Effective Date of the Westbank Final Agreement and is for a term of ten years. The Parties may undertake some preparatory activities contemplated by the Plan prior to the Plan coming into force on the Effective Date.

Westbank First Nation Self-Government Agreement
IMPLEMENTATION PLAN

GENERAL

The Implementation Plan shall not constitute a contract between the Parties and does not create any legal obligations or commitments.

The Implementation Plan shall be appended to, but shall not form Part of the Final Agreement and it does not alter any rights or obligations set out in the Final Agreement.

The Implementation Plan is not a treaty and is not intended to recognize or affirm aboriginal or treaty rights within the meaning of section 25 or 35 of the *Constitution Act*, 1982.

If there is a conflict between the Implementation Plan and the Agreement, the Agreement shall prevail to the extent of the conflict.

Words and phrases defined in the Agreement have the same meaning in the Implementation Plan, unless the context indicates otherwise.

CONTENTS

The Implementation Plan includes:

- a. "Activity sheets" (Appendix A) that identify the obligations and activities arising from the Agreement and the manner in which the Parties anticipate undertaking those activities in fulfilling those obligations; and
- b. A communication strategy in respect of the implementation and content of the Westbank First Nation Self-Government Agreement.

REVIEW AND AMENDMENT

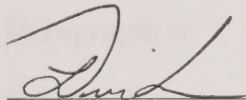
The Parties may, by agreement, amend Appendix "A" of the Implementation Plan. For greater certainty, agreement to amend Appendix "A" of the Implementation Plan shall not be construed as an obligation to renegotiate the Implementation Plan or the Agreement.

Pursuant to Part XXVI of the Agreement, the Intergovernmental Implementation Committee shall review the Implementation Plan within five years of the Effective Date of the Agreement unless the Parties agree otherwise.

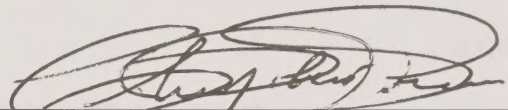
The Parties may agree to renew the Implementation Plan for a period beyond its initial term.

**Westbank First Nation Self-Government Agreement
IMPLEMENTATION PLAN**

SIGNED ON BEHALF OF THE WESTBANK FIRST NATION:



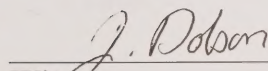
Witness



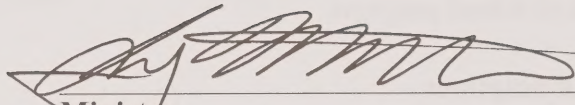
Chief Robert Louie
Westbank First Nation

Date April 13 / 04

SIGNED ON BEHALF OF CANADA:



Witness



Minister,
Indian Affairs and Northern Development

Date March 29 / 04

Part II - Fundamental Principles

Sheet #1

Continued Access of Westbank Members to Federal Programs

Paragraph(s): 10

Parties: Westbank First Nation, Canada

Obligations Addressed: Members may continue to have access to federal programs in accordance with general eligibility criteria established from time to time, to the extent that Westbank First Nation has not assumed responsibility for the provision of these programs.

Activities	Responsibility	Timing
1. Westbank First Nation and Canada will include information regarding Westbank Members' continued access to federal programs in the Communication Plan.	Westbank First Nation, Canada	Prior to Effective Date
2. Through the Communication Plan, the Parties will advise federal departments to continue to include Westbank First Nation in any notification to First Nations of federal programs.	Westbank First Nation, Canada	Prior to Effective Date

Planning Assumptions

Westbank First Nation will continue to be notified of any new federal program for aboriginal people in accordance with the general procedure of the federal department for the notification of First Nations

Legislative/Regulatory Amendments

Final Agreement Provisions:

10. Westbank First Nation, or its Members, or both, shall be eligible to participate in and benefit from federal programs for aboriginal people in accordance with general criteria established from time to time, to the extent that Westbank First Nation has not assumed responsibility for provision of such benefits or programs.

Related Provisions:

Part IV - Powers of Government

Sheet #1

Personal Immunity for Civil Liability (Permissive)

Paragraph(s): 26

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may pass laws concerning the personal immunity from civil liability of employees, members or officers of the government of Westbank First Nation and its institutions.

Activities	Responsibility	Timing
1. Should Westbank First Nation pass a law on Personal Immunity for civil liability pursuant to the Agreement, Westbank First Nation will pass the law in accordance with the procedure set out in the Constitution.	Westbank First Nation	As desired
2. Westbank First Nation will notify Canada in accordance with the procedures established for the Notification to Canada of Westbank Laws.	Westbank First Nation	at least 60 days prior to coming into force.

Planning Assumptions

- It is expected that Westbank First Nation will pass a law in this regard on or soon after the Effective Date.

Legislative/Regulatory Amendments

Final Agreement Provisions:

26. Westbank First Nation may, in the exercise of the jurisdictions set out in this Agreement, make laws concerning the personal immunity from civil liability of employees, officers or elected officials of the government of Westbank First Nation and its institutions, subject to such provisions also providing that the government of Westbank First Nation, as employer, retains vicarious liability for the acts or omissions of employees, officers or elected officials of the government of the Westbank First Nation covered by the immunity.

Related Provisions:

Part VI - Structures and Procedures of Government

Sheet #1

Development and Approval of Westbank First Nation Constitution

Paragraph(s): 42 - 44

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation will develop a Westbank First Nation Constitution consistent with the Agreement and will ratify the Constitution in accordance with the procedures established.

Activities	Responsibility	Timing
1. The Westbank First Nation will commence community consultations in respect of the development of a Westbank First Nation Constitution.	Westbank First Nation	Prior to Westbank First Nation Ratification
2. Westbank First Nation will begin drafting a Constitution based upon the community consultations and as per paragraph 42-44 of Part VI.	Westbank First Nation	Prior to Westbank First Nation Ratification
3. The Constitution will include the rules governing membership (Sheet VII - 1), land (Sheet X - 1) and financial management and accountability (Sheet IX - 1) and referendum procedures.	Westbank First Nation	Prior to Westbank First Nation Ratification
4. The Westbank First Nation will conclude community consultation and conduct a ratification vote in accordance with Part XXXII and Schedule A of the Agreement and Activity Sheet - Ratification (Sheet XXXII - 1)	Westbank First Nation	Prior to Westbank First Nation Ratification
5. Westbank First Nation may translate the Constitution into Okanagan language.	Westbank First Nation	As desired
6. The Ratification Committee will submit to the Parties, a report tabulating the results of the ratification process indicating whether or not the Constitution has been approved as outlined in Schedule A of the Agreement	Westbank First Nation	As outlined in Schedule A

Planning Assumptions

Legislative/Regulatory Amendments

Final Agreement Provisions:

42. There shall be a Constitution. The Constitution shall be consistent with this Agreement.

43. The Constitution shall provide for the following matters:

- (a) that the Council shall act on behalf of Westbank First Nation in exercising jurisdiction in accordance with this Agreement;
- (b) for democratic elections of Council by Members, rules for composition of Council, tenure of Council members and provision for the removal of Council members;
- (c) internal financial management and accountability to Members in accordance with Part IX;
- (d) conflict of interest rules;
- (e) procedures for the passage and amendment of laws for Westbank First Nation;
- (f) appeal mechanisms;
- (g) an amending procedure for the Constitution;
- (h) provisions for public notification of Westbank Law;
- (i) rules governing membership in the Westbank First Nation in accordance with Part VII;
- (j) land rules in accordance with Part X;
- (k) referendum procedures; and
- (l) provisions in relation to other matters over which Westbank First Nation has jurisdiction as set out in this Agreement which are determined by Westbank First Nation to be of sufficient importance to be included in the Constitution.

44. (a) The provisions of the Constitution referred to in section 43 shall be ratified by Westbank First Nation at the same time and in the same manner as ratification of this Agreement.

(b) The Constitution ratified in accordance with part XXXII shall come into force on the Effective Date.

Related Provisions: 182, Schedule A

Part VI - Structures and Procedures of Government

Sheet #2

Establishment of Boards, Commissions and Other Self-Government Related Bodies (Permissive)

Paragraph(s): 47

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may establish administrative boards, tribunals, commissions or other administrative bodies to carry out functions under Westbank Law.

Activities	Responsibility	Timing
1. Pursuant to the Agreement, Westbank First Nation may establish new administrative boards, tribunals, commissions or administrative other bodies to determine rights under Westbank Law.	Westbank First Nation	As desired after Effective Date
2. New administrative boards, tribunals, commissions and other such administrative bodies will be established in accordance with Westbank Law.	Westbank First Nation	As needed after Effective Date

Planning Assumptions.

- Westbank First Nation intends to continue with its existing bodies (ie Assessment Board of Review).
- The Assessment Board of Review will continue under the Westbank First Nation Property Taxation Assessment by-law pursuant to the *Indian Act*. Other administrative bodies may be formalized under new Westbank First Nation law.

Legislative/Regulatory Amendments

Final Agreement Provisions:

47. Westbank Law may establish administrative boards, tribunals, commissions or other administrative bodies for carrying out functions under Westbank Law including the determination of matters or rights under Westbank Law except with respect to matters or rights the Constitution requires determined in a specific manner.

Related Provisions:

Part VI - Structures and Procedures of Government

Sheet #3

Delegation of Jurisdiction (Permissive)

Paragraph(s): 49 - 52

Parties: Westbank First Nation

Obligations Addressed: Subject to the provisions of the Agreement and Constitution, Westbank First Nation through written agreement with the delegatee, may delegate any Westbank First Nation jurisdiction to a tribal, regional or national body established by First Nations. Westbank First Nation may also internally delegate powers to its departments and officials.

Activities	Responsibility	Timing
1. If Westbank First Nation choses to delegate jurisdiction, in whole or in part to a tribal, regional or national body established by First Nations, such delegation shall be consistent with the Constitution and Agreement and in accordance with a procedure to be established by Westbank First Nation for this purpose.	Westbank First Nation	To be determined after Effective Date
2. Ensure the delegatee meets the criteria set out in 49(a) and 49(b)	Westbank First Nation	After Effective Date and prior to delegation
3. Westbank First Nation shall enter into a written agreement with the delegatee regarding the delegation of its jurisdiction	Westbank First Nation	As required
4. Westbank First Nation may internally delegate powers to its departments and officers.	Westbank First Nation	After effective date

Planning Assumptions

- The delegatee will already be operating under an implemented Self-Government Agreement with Canada.
- Westbank First Nation will look to creating economies of scale in governance and provision of services. Where services can be provided more efficiently, effectively and economically through delegation of jurisdiction or authority, the Parties will consider these options in accordance with the Agreement.
- Westbank First Nation will delegate Indian and Northern Affairs Canada's land management responsibilities in relationship to interests in Westbank Lands created prior to Effective Date to the Westbank First Nation Director of Lands.

Legislative/Regulatory Amendments

Final Agreement Provisions:

49. Any jurisdiction of Westbank First Nation may be delegated, consistent with the Constitution and Agreement, in whole or in part to a tribal, regional or national body established by First Nations subject to:
 - (a) the delegatee body acting under an implemented self-government agreement with Canada that provides for the exercise of such jurisdiction; or
 - (b) a court recognizing the right of that delegatee body to exercise such jurisdiction.
50. In the exercise of jurisdiction set out in this Agreement, Westbank First Nation may delegate authority, other than law-making authority, to any tribal council, regional body or national body established by First Nations or to any other legal entity in Canada.
51. Any delegation made by Westbank First Nation pursuant to sections 49 or 50 is not valid except by written agreement with the delegatee.
52. Westbank First Nation may delegate any of its authority, other than law-making authority or authority in relation to matters the Constitution requires determined in a specific matter, to a department, institution, agency or official of Westbank First Nation government.

Related Provisions:

Part VI - Structures and Procedures of Government

Sheet #4

Governance Arrangements (Permissive)

Paragraph(s): 53

Parties: Westbank First Nation
Canada

Obligations Addressed: Should Westbank First Nation enter into governance arrangements which establish another level of government, Westbank First Nation, Canada and the other level of government will address division of the functions of Westbank First Nation governance and make required changes to the Agreement, Financial Transfer Agreement and Implementation Plan.

Activities	Responsibility	Timing
1. Should Westbank First Nation wish to enter into governance arrangements with other First Nations which establish another level of government; Westbank First Nation will notify Canada in writing of its interest in doing so.	Westbank First Nation; Canada	As desired after the Effective Date
2. Westbank First Nation, Canada and the other level of government shall meet to determine which functions of Westbank First Nation government will be transferred to the other level of government and what change may be required to the existing Agreement, Financial Transfer Agreement and/or the Implementation Plan.	Westbank First Nation; Canada	As agreed by the Parties after the Effective Date
3. Westbank and Canada will make the agreed changes to the Agreement, the Financial Transfer Agreement and/or the Implementation Plan	Westbank First Nation; Canada	Prior to effecting the proposed governance arrangement.

Planning Assumptions

- Westbank First Nation will look to creating economies of scale in governance and provision of services. Where services can be provided more efficiently, effectively and economically through delegation of jurisdiction or authority, the Parties will consider these options in accordance with the Agreement.

Legislative/Regulatory Amendments

Final Agreement Provisions:

53. Should Westbank First Nation enter into governance arrangements with other First Nations that would establish

another level of First Nation government, Canada, Westbank First Nation and the other level of government shall address which functions of the government of the Westbank First Nation should remain at the individual First Nation's level, which functions should be transferred to the other level of government and what changes may be required to the existing Agreement, financial transfer agreement and implementation plan in order to ensure the stable and efficient operation of both levels of government.

Related Provisions:

Part VI - Structures and Procedures of Government

Sheet #5

Non-Member Representation

Paragraph(s): 54

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation will establish a mechanism by which non-Members will have input into Westbank Law and amendment of Westbank Law that directly and significantly affects them.

Activities	Responsibility	Timing
1. Westbank First Nation will engage in consultations with non-Members having a legal interest in Westbank Lands for the purpose of developing a mechanism which provides for their input into the development and their consent to the amendment of Westbank Law that directly and significantly affects them, through an Advisory Council.	Westbank First Nation	Prior to the Effective Date
2. Subsequent to these consultations, Westbank First Nation will develop a law which establishes a mechanism for non-Member representation.	Westbank First Nation	Prior to the Effective Date
3. Westbank Law for non-Member representation shall be enacted prior to any new Westbank Law being enacted or within 30 days of the Effective Date.	Westbank First Nation	The sooner of: prior to enactment of new Westbank Law or within 30 days of the Effective Date.
4. Through the Westbank Law, Westbank First Nation will establish the process by which non-Members are notified of and may make representations to Westbank First Nation regarding Westbank Law or amendments to Westbank Law.	Westbank First Nation	at enactment of Law establishing the Advisory Council

Planning Assumptions.

- Activities 1 and 2 have been completed by Westbank First Nation.

Legislative/Regulatory Amendments

Final Agreement Provisions:

54. (a) Non-Members living on Westbank Lands or having an interest in Westbank Lands shall be provided in

Westbank Law with mechanisms through which they may have input into proposed Westbank Law and proposed amendments to Westbank Law that directly and significantly affect such non-Members.

- (b) Westbank Law providing the mechanisms required under subsection 54(a) shall be enacted prior to any new Westbank Law being enacted by Council after the Effective Date, or within 30 days of the Effective Date, whichever is sooner.
- (c) Westbank Law enacted to meet the obligation referred to in subsection 54(a) shall only be amended or replaced with the consent of the non-Members living on Westbank Lands or having an interest in Westbank Lands.
- (d) Westbank Law enacted to meet the obligations under subsection 54(a) shall provide for the process by which the consent of the non-Members shall be obtained for the purposes in subsection 54(c).

Related Provisions:

Part VI - Structures and Procedures of Government

Sheet #6

Financial Accountability Standards

Paragraph(s): 55

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation will establish and maintain financial accountability standards at least comparable to those of other public governments providing similar public services.

Activities	Responsibility	Timing
1. Westbank First Nation will instruct that financial accountability standards at least comparable to those of other public governments providing similar services shall continue to be maintained for Westbank First Nation.	Westbank First Nation	on-going after Effective Date

Planning Assumptions

Westbank First Nation has in place acceptable financial accountability standards that will require minimal augmentation.

Legislative/Regulatory Amendments

Final Agreement Provisions:

55. Financial accountability standards of Westbank First Nation shall be at least comparable to those of other public governments providing similar public services.

Related Provisions:

Part VI - Structures and Procedures of Government

Sheet #7

Application of Existing Westbank First Nation By-laws Pursuant to the *Indian Act, Indian Oil and Gas Act, First Nations Land Management Act*

Paragraph(s): 56 - 60

Parties: Westbank First Nation;
Canada, DIAND BC Region

Obligations Addressed: Westbank First Nation will review existing by-laws to determine which will stay in force as they currently exist, and which will require amendment and where new law is required to ensure a smooth transition following the Agreement coming into effect.

Activities	Responsibility	Timing
1. Westbank First Nation, as part of the by-law review procedure, will determine which Westbank First Nation by-laws deal with subject matter that will form part of the Constitution.	Westbank First Nation	Prior to Ratification
2. Westbank First Nation, in consultation with Canada, will review Westbank First Nation existing by-laws and determine those which will continue, will require amendment, and will be repealed.	Westbank First Nation, Canada	Prior to the Effective Date
3. Through the review, drafting and amending process, Westbank First Nation will ensure that by-laws do not inadvertently impact on areas addressed in the Agreement.	Westbank First Nation	Prior to the Effective Date
4. Where a by-law made under Section 81 of the Indian Act and forwarded to the Minister in accordance with Section 82 is to be repealed or amended, the by-law to effect the repeal or amendment must be done at least 40 days prior to the Effective Date.	Westbank First Nation	at least 40 days prior to the Effective Date
5. Westbank First Nation will draft new laws or amend laws as required by other provisions of the Agreement to come into force on the Effective Date.	Westbank First Nation	Prior to the Effective Date

- | | | | |
|----|---|-----------------------|-----------------------------|
| 6. | Westbank First Nation will review and amend its operational policies and procedures, including information systems and financial management practices to requirements of Westbank First Nation Law and the Final Agreement so it will be operational on the Effective Date. | Westbank First Nation | Prior to the Effective Date |
| 7. | Westbank First Nation will notify Canada of the revised by-laws and the by-laws that will continue under the <i>Indian Act</i> in accordance with the procedure laid out in the Activity Sheet - Notification to Canada of Westbank Laws. | Westbank First Nation | Prior to the Effective Date |

Planning Assumptions

- Some Westbank First Nation Indian Act by-laws that will require Ministerial concurrence to repeal or amend. Where Westbank First Nation makes laws under First Nation Land Management Act, these laws will become Westbank Law on Effective Date.

Legislative/Regulatory Amendments

Final Agreement Provisions:

56. Except as provided for in this Agreement, the *Indian Act* shall no longer apply to Westbank First Nation, Council, Members and Westbank Lands.
57. The *Indian Oil and Gas Act* and regulations thereunder shall no longer apply to Westbank First Nation, Council, Members and Westbank Lands.
58. (a) Upon the Effective Date, the Framework Agreement on First Nation Land Management, the *First Nation Land Management Act*, shall no longer apply to Westbank First Nation, Council, Members and Westbank Lands.
- (b) Any interest in Westbank Lands approved, created, granted or any action undertaken in accordance with the *First Nation Land Management Act* and existing as of the Effective Date shall continue to have effect in accordance with its terms and conditions.
- (c) Any law enacted by Westbank First Nation in accordance with the *First Nation Land Management Act* shall be deemed to be in force as a Westbank Law.
- (d) If the *First Nations Governance Act* (Bill C- 7) receives Royal Assent, upon the Effective Date the *First Nations Governance Act* shall no longer apply to Westbank First Nation, Council, Members and Westbank Lands.
59. Westbank First Nation bylaws enacted pursuant to the *Indian Act* shall be deemed to be in force as a Westbank Law where the subject matter of such bylaws is a subject matter in relation to which Westbank First Nation has jurisdiction pursuant to this Agreement.
60. For greater certainty, with respect to bylaws enacted by Westbank First Nation pursuant to those provisions of the *Indian Act* that continue to apply, such bylaws shall remain in force as amended from time to time.

Related Provisions: Part XXXI, 273 - 280

Part VI - Structures and Procedures of Government

Sheet #8

Notification to Canada of Westbank Laws

Paragraph(s): 61, 62

Parties: Westbank First Nation; Canada, DIAND BC Region

Obligations Addressed: Westbank First Nation will notify Canada at least 60 days prior to the coming into force of Westbank Law.

Activities	Responsibility	Timing
1. Westbank First Nation will notify Canada, prior to the first Westbank First Nation Law coming into force for each of Parts VII to XXIV of the Final Agreement.	Westbank First Nation	At least 60 days prior to law coming into force
2. Westbank First Nation shall provide Canada with copies of Westbank Laws, both first and subsequent, at the following address: Regional Director General DIAND, BC Region	Westbank First Nation	Within 60 days following a law's enactment

Planning Assumptions

- This only applies to laws enacted after Effective Date.
- The purpose of notifying Canada on the enactment of the first law is to allow time for planning and any required action for smooth transition. Copies of subsequent law are for public information purposes.
- Westbank First Nation and Canada agree that as Westbank law is developed it is to be made available in a central register.

Legislative/Regulatory Amendments

Final Agreement Provisions:

61. Following the enactment of the first Westbank Law pursuant to Parts VII to XXIII, Westbank First Nation shall notify Canada at least 60 days prior to the first Westbank Law coming into force for each of Parts VII to XXIII.
62. Westbank First Nation shall provide Canada with copies of Westbank Law for Canada's internal information purposes.

Related Provisions: 64 -66

Part VI - Structures and Procedures of Government

Sheet #9

Westbank Public Register

Paragraph(s): 64 - 66

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation will establish and maintain a public register of Westbank Laws

Activities	Responsibility	Timing
1. Westbank First Nation will establish and maintain a public register to house written copies of all Westbank Laws.	Westbank First Nation	On Effective Date
2. Westbank First Nation will develop policies and procedures on the maintenance of the Westbank Public Register.	Westbank First Nation	Prior to Effective Date
3. Westbank First Nation will develop a public information brochure regarding the public register and the application of Westbank Laws.	Westbank First Nation	As desired

Planning Assumptions

- It is anticipated that the Public Register will be established at the Westbank First Nation Administration office. Hard copies of Westbank First Nation laws will be available for viewing, during office hours.
- It is also the intention of Westbank First Nation to establish a website which will house the information contained in the Westbank Public Register.

Legislative/Regulatory Amendments

Final Agreement Provisions:

64. Westbank Law must be in writing and available to the public.
65. Westbank First Nation shall maintain a Westbank First Nation public register of all Westbank Law.
66. On the enactment of a Westbank Law, the original thereof shall be deposited in the Westbank First Nation's public register of Westbank Law.

Related Provisions:

Part VII - Westbank First Nation Membership

Sheet #1

Westbank First Nation Membership Rules

Paragraph(s): 43(i), 70, 72, 76,

Parties: Westbank First Nation
Canada, DIAND BC Region

Obligations Addressed: Westbank First Nation will establish in the Constitution, developed in consultation with its Members, rules governing membership in Westbank First Nation. The Constitution will also include a procedure for review of decisions pursuant to the Constitution.

Activities	Responsibility	Timing
1. Westbank First Nation will review existing Westbank First Nation by-laws affecting Membership in accordance with the procedure for reviewing by-laws outlined in Activity Sheet -Application of Existing Westbank First Nation by-laws.	Westbank First Nation	Prior to Westbank First Nation Ratification
2. Westbank First Nation will consult with Members in drafting rules governing membership in Westbank First Nation ,that are consistent with the Final Agreement, for inclusion in the Constitution. These rules will determine eligibility requirements for Westbank First Nation Membership and include procedures for reviewing decisions made pursuant to the Constitution.	Westbank First Nation	Prior to Westbank First Nation Ratification
3. DIAND BC Region will provide a copy of the Westbank Band List to Westbank First Nation	Canada, Westbank First Nation	As required after Effective Date

Planning Assumptions

- Confidentiality issues with regard to exchange and transfer of information will be addressed prior to the conclusion of the Final Agreement.

Legislative/Regulatory Amendments

Final Agreement Provisions:

43. The Constitution shall provide for the following matters:
- rules governing membership in the Westbank First Nation in accordance with Part VII;

70. Westbank First Nation has jurisdiction in relation to membership of Westbank First Nation.
72. The membership rules in the Constitution and Westbank Laws in relation to membership shall not deprive any person who had the right to have his or her name entered in the Band List, as defined in the *Indian Act*, for Westbank First Nation, immediately prior to the Effective Date, of the right to be a Member by reason only of a situation that existed or an action that was taken before the Effective Date.
76. The Constitution shall include a procedure for reviewing decisions made pursuant to the Constitution.

Related Provisions:

Part VII - Westbank First Nation Membership

Sheet #2

Application to and maintenance of the Indian Registry System (IRS) and issuance of Certificate of Indian Status (CIS) cards.

Paragraph(s): 73

Parties: Westbank First Nation
Canada

Obligations Addressed: Westbank Members who are entitled to be registered as Indians under the *Indian Act* will continue to be entitled to be registered.

Activities	Responsibility	Timing
1. A person entitled to be registered under the <i>Indian Act</i> , or a person or organization acting on his or her behalf, applies to the Registrar to be registered in the Indian Registry maintained by DIAND	Applicant or person or organization acting on his or her behalf	As desired
2. The Registrar considers the application to determine whether or not he or she is entitled to be registered.	The Registrar (Indian Registration, DIAND, HQ)	As soon as practicable after receipt of application
3. If the Registrar determines that the applicant is eligible to be registered, he or she will register the applicant and will notify the applicant, Westbank First Nation Indian Registry Administrator, and BC DIAND Regional Office of the registration	The Registrar (Indian Registration, DIAND, HQ)	As soon as practicable after determination of eligibility
4. Westbank First Nation on behalf of DIAND or DIAND, BC Regional Office will issue a status card to the applicant once the Registrar has confirmed registration in writing.	Westbank First Nation on behalf of DIAND or DIAND, BC Regional Office	As soon as practicable after receipt of notice of registration
5. Westbank First Nation Indian Registry Administrator will continue to provide the documentation necessary for DIAND to update the Indian Registry System (IRS).	Westbank First Nation	Ongoing
6. DIAND will update the list of status Indians based on the documentation submitted by Westbank First Nation Indian Registry Administrator and provide an updated list to Westbank First Nation Indian Registry Administrator.	DIAND	Ongoing

- | | | |
|---|-------|---------|
| 7. DIAND will continue to supply Westbank First Nation with blank CIS cards as requested and necessary. | DIAND | Ongoing |
| 8. DIAND will continue to replace CIS cards at any Regional Office in Canada. | DIAND | Ongoing |

Planning Assumptions

This sheet addresses the processing of applications with respect to Indian status from and on behalf of Westbank First Nation Members who did not have Indian status before the Effective Date and new applicants after the Effective Date.

The determination of registered Indian status is an *Indian Act* provision that will continue to apply to Westbank First Nation after the Effective Date. The general criteria for access to programs and services provided by Canada may include registration as status Indians under the *Indian Act*.

Legislative/Regulatory Amendments

Final Agreement Provisions:

73. All Members entitled to be registered as Indians under the *Indian Act* shall continue to be entitled to be registered as Indians under the *Indian Act*.

Related Provisions: 10, 11

Part VII - Westbank First Nation Membership

Sheet #3

Information Sharing for Membership Verification

Paragraph(s):	75
Parties:	Westbank First Nation Canada
Obligations Addressed:	A verification process is required to ensure that a Westbank First Nation Member is not simultaneously a member of another band or First Nation in Canada.

Activities	Responsibility	Timing
1. Westbank First Nation will contact DIAND and other Indian Registry Administrators to determine if Canada or other Indian Registry Administrators have any information that indicates that an applicant for Westbank Membership is a member of another Band.	Westbank First Nation	As required after Effective Date.

Planning Assumptions

- In order to fulfil this provision, Westbank First Nation will need a process for verification and an information sharing protocol so they may access the required information to determine if an applicant for Westbank Membership is a member of another band or First Nation.
- It is expected that any verification procedure will be initiated on the basis of “triggers”
- Confidentiality and privacy issues will be addressed.

Legislative/Regulatory Amendments

Final Agreement Provisions:

75. No member of another band or First Nation in Canada may, at the same time, be a Member.

Related Provisions:

Part VIII - Wills and Estates

Sheet #1

Wills and Estates

Paragraph(s): 78-80

Parties: Westbank First Nation
Canada, BC Region

Obligations Addressed: At such time as Westbank First Nation chooses to exercise its jurisdiction, Westbank First Nation will notify Canada of the passage of Westbank law to this effect. Until such time, wills and estates will continue to be administered by Canada under *Indian Act* provisions.

Activities	Responsibility	Timing
1. Should Westbank First Nation decide to exercise its jurisdiction over Wills and Estates pursuant to the Agreement, Westbank First Nation will pass a law in accordance with the procedures set out in the Constitution. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	As desired after Effective Date
2. Until such time as the coming into force of Westbank Law, Canada will continue to administer wills and estates in accordance with <i>Indian Act</i> provisions.	Canada, DIAND BC Region	as required until passage of Westbank First Nation Law

Planning Assumptions

Westbank First Nation has no intention of exercising its jurisdiction over wills and estates at this time.

Legislative/Regulatory Amendments

Final Agreement Provisions:

78. (a) Westbank First Nation has jurisdiction in relation to the wills and estates of Members ordinarily resident on Westbank Lands who are Indians as defined under the *Indian Act*.
- (b) For greater certainty, the reference to estates in this Part means the property of deceased persons, Mentally Incompetent persons and infants.
79. (a) Until such time as the coming into force of the first Westbank Law enacted pursuant to the jurisdiction described in this Part, the definitions of “child”, “estate”, and “mentally incompetent Indian” referred to in section 2 of the *Indian Act* and sections 43 to 48, subsections 50(1) to 50(3) and sections 51 to 52.5 of the *Indian Act* continue to apply.

- (b) Until such time as the coming into force of any Westbank Law enacted pursuant to the jurisdiction described in this Part, section 42 of the *Indian Act* and regulations thereunder shall continue to apply to the extent of any conflict with Westbank Law passed under other jurisdictions set out in this Agreement.
- (c) Notwithstanding section 78 and subsection 79(a), wills and estates under administration prior to the exercise of jurisdiction by Westbank First Nation under this Part shall continue to be administered under the provisions of the *Indian Act*.
- (d) For greater certainty, wills and estates of individuals who die after the enactment of Westbank Law pursuant to subsection 78(a) shall be administered in accordance with Westbank Law.

80. The jurisdiction referred to in subsection 78(a) shall not extend to immoveable property off Westbank Lands.

Related Provisions: 19, 20

Part IX - Financial Management

Sheet #1

Financial Management and Accountability

Paragraph(s): 82-84

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation will establish internal financial management and accountability rules and continue to maintain financial accountability standards at least comparable to those of other governments providing similar public services.

Activities	Responsibility	Timing
1. The Westbank First Nation will review their existing financial management by-laws and existing financial accountability standards in developing internal financial management and accountability rules to be contained in the Constitution in accordance with the Final Agreement and the procedure set out in Activity Sheet - Application of Existing Westbank First Nation by-laws.	Westbank First Nation	Prior to Westbank First Nation Ratification
2. The Westbank First Nation will consult with Westbank members in drafting financial management and accountability rules consistent with the Final Agreement which will form part of the Westbank First Nation Constitution.	Westbank First Nation	Prior to Westbank First Nation Ratification
3. Westbank First Nation will review existing, and where required, develop new accounting procedures, policies and standards pursuant to the Constitution.	Westbank First Nation	Prior to Westbank First Nation Ratification

Planning Assumptions

Legislative/Regulatory Amendments

Final Agreement Provisions:

82. Westbank First Nation has jurisdiction in relation to internal financial management of Westbank First Nation.
83. Monies raised by taxation, fees, permits or other means by Westbank First Nation shall be administered in accordance with the Constitution and Westbank Laws in relation to internal financial management and, for financial transfer agreement funds, shall be administered in accordance with the provisions of the financial transfer agreement.

84. Without limiting the generality of the foregoing, Westbank First Nation may:

- (a) receive monies from the federal or provincial governments and from other entities;
- (b) expend, invest, assign or commit monies received;
- (c) borrow monies, including issuing treasury bills, temporary debentures, promissory notes or similar forms of obligations; and
- (d) perform such other functions regarding financial management and administration as may be required from time to time.

Related Provisions: 42, 43(c), 55

Part X - Westbank Lands and Land Management

Sheet #1

Development and Approval of Land Rules

Paragraph(s): 42, 43(j), 44, 87, 88, 91, 103, 105 - 107, 109

Parties: Westbank First Nation
Canada

Obligations Addressed: Westbank First Nation, in consultation with its Members, will develop land rules which will form part of the Constitution.

Activities	Responsibility	Timing
1. Westbank First Nation will consult with its Members in drafting land rules, consistent with the Agreement, which will form part of the Constitution. The land rules will be part of the Constitution and will be developed in accordance with Activity Sheet - Development and Approval of Westbank First Nation Constitution.	Westbank First Nation	Prior to Westbank First Nation Ratification
2. Westbank First Nation will address in its land rules rights and obligations of interest holders including ownership of natural resources, access, procedures to deal with expropriation and compensation for expropriated Westbank Land and for the transfer of interest in Westbank Land by testamentary disposition or succession.	Westbank First Nation	Prior to Westbank First Nation Ratification
3. Westbank First Nation will develop policy and procedures included in a Lands Manual to administer the land rules pursuant to the Constitution.	Westbank First Nation	by Effective Date

Note: Several activity Sheets follow to reflect more detailed implementation activities associated with this Part.

Planning Assumptions

- Westbank First Nation makes a distinction between land law creating or transferring interests in Westbank Land and those laws regulating land use and development.
- The Constitution will deal primarily with the first category, while law addressing municipal-like planning and development functions will be passed by the Council.

Legislative/Regulatory Amendments

Final Agreement Provisions:

42. There shall be a Constitution. The Constitution shall be consistent with this Agreement.

43. The Constitution shall provide for the following matters:
- (j) land rules in accordance with Part X;
44. (a) The provisions of the Constitution referred to in section 43 shall be ratified by Westbank First Nation at the same time and in the same manner as ratification of this Agreement.
- (b) The Constitution ratified in accordance with part XXXII shall come into force on the Effective Date.
87. Title to all Westbank Lands shall continue to be held in the name of Her Majesty the Queen in Right of Canada for the use and benefit of Westbank First Nation.
88. Subject to sections 90 and 91, Licences and interests in Westbank Lands approved, created, granted or issued pursuant to the *Indian Act* and existing as of the Effective Date shall continue to have effect in accordance with their terms and conditions.
91. Interests in Westbank Lands held on the Effective Date by Members pursuant to allotments under subsection 20(1) of the *Indian Act* are subject to the provisions of Westbank Law governing interests in Westbank Lands and sharing in natural resource revenues.
103. Westbank First Nation has jurisdiction in relation to the management, administration, government, control, regulation, use and protection of Westbank Lands. This jurisdiction includes jurisdiction over foreshore and waterbeds where these areas form part of Westbank Lands, but does not include Minerals which are addressed in Part XII. This jurisdiction includes:
- (a) the creation of interests in Westbank Lands;
 - (b) procedures for the transfer or disposition of interests in Westbank Lands;
 - (c) procedures in accordance with the Constitution for encumbering interests in Westbank Lands, including rules affecting the exemption referred to in section 89 of the *Indian Act*;
 - (d) expropriation of interests in Westbank Lands for community purposes in accordance with section 105;
 - (e) treatment of interests in Westbank Lands on marriage breakdown in accordance with section 108;
 - (f) zoning and land use planning;
 - (g) use, construction, maintenance, repair and demolition of buildings and other structures;
 - (h) access to Westbank Lands subject to sections 106 and 107;
 - (i) trespass on Westbank Lands; and
 - (j) residency on Westbank Lands.
105. Westbank First Nation has jurisdiction in relation to expropriation of interests in Westbank Lands for a Community Purpose subject to the following principles:
- (a) Westbank First Nation shall provide fair compensation to the interest holder and a mechanism to resolve disputes in relation to compensation it pays; and
 - (b) the following interests in Westbank Lands are not subject to Westbank expropriations:
 - (i) interests obtained pursuant to section 35 of the *Indian Act*; and
 - (ii) interests in Westbank Lands held by Canada.
106. The exercise of jurisdiction by Westbank First Nation in relation to access to Westbank Lands shall not prevent those persons with rights or interests in Westbank Lands from being able to access those lands associated with those rights or interests.
107. (a) Persons acting in an official capacity pursuant to lawful authority shall have access to Westbank Lands. Such access shall be without charge except as provided for under the lawful authority for access. Such persons shall comply with Westbank Law enacted pursuant to subsection 103(h) where such compliance does not unduly interfere with the carrying out of their duties. Subject to 106 (b), Canada shall give prior

notice of the exercise of such access to Council when it is reasonable to do so.

- (b) Peace officers, federal investigators and law enforcement officers carrying out duties under the law of Canada are not required to provide notice as referred to in 106 (a).

109. (a) The Constitution shall include procedures that apply to the transfer, by testamentary disposition or succession, of any interest in Westbank Lands.

- (b) For greater certainty, the procedures in the Constitution referred to in subsection 109(a) shall not be considered an exercise of jurisdiction under Part VIII.

Related Provisions: 135, 138, Part XII

Part X - Westbank Lands and Land Management

Sheet #2

Exchange of Lands (Permissive)

Paragraph(s): 92 - 94

Parties: Westbank First Nation
Canada

Obligations Addressed: Should an exchange of Westbank Lands be contemplated, Westbank First Nation will ensure the criteria established in the Agreement and in the Constitution are fulfilled and Canada, subject to the provisions of the Agreement, will take the necessary steps to transfer and acquire the relevant titles.

Activities	Responsibility	Timing
1. The Party initiating a proposed land exchange shall notify the other Party of its intent.	Westbank First Nation, Canada	As desired after the Effective Date
2. Canada must review the proposed land exchange and indicate its willingness to set apart such lands as reserve lands.	Canada	As soon as is practicable after notification
3. Westbank First Nation will evaluate whether the proposed land exchange meets the criteria set out in 91(a) of the Agreement.	Westbank First Nation	As soon as practicable after activity 2
4. If the proposed land exchange is found to meet the criteria, Westbank First Nation will make full disclosure to its Members regarding the proposed land exchange transaction and hold a vote on the proposed land exchange in accordance with the procedures established in the Constitution and criteria set out in the Agreement.	Westbank First Nation	Following outcome of activity 3
5. Upon receipt of authorization and direction from Westbank First Nation, Canada will acquire and transfer the relevant titles subject to the authorization, terms and conditions and applicable procedural requirements	Canada, Westbank First Nation	In a timeframe negotiated by the parties

Planning Assumptions

- In the day-to-day administration between the Parties, it may be necessary to effect the mutually beneficial exchange of lands but it is intended that one of: the overall size; or value of Westbank Lands shall not be decreased.

Legislative/Regulatory Amendments

Final Agreement Provisions:

92. Subject to sections 111 to 131, Westbank Lands shall not be alienated except for exchange of land in circumstances where:
- (a) Westbank First Nation shall receive lands of greater or equivalent size or value in consideration for the exchange taking into account all of its interests involved;
 - (b) Canada is willing to set apart the lands received in exchange as a reserve defined under the *Indian Act* and as subsection 91(24) lands as set out in the *Constitution Act, 1867*;
 - (c) Council has made full disclosure to its Members of all the circumstances surrounding the exchange. At least three community meetings shall be held where the proposed transactions are disclosed; and
 - (d) the Members have approved the exchange in accordance with an approval process to be established in the Constitution for this purpose.
93. (a) Where the criteria in section 92 have been satisfied, Westbank First Nation can execute an authorization and direction to Canada to exchange title to the land.
- (b) Upon Canada receiving authorization and direction to exchange Westbank Land, Canada shall take the necessary steps to transfer and acquire the relevant titles to the lands in accordance with:
- (i) the authorization;
 - (ii) the terms and conditions of the exchange; and
 - (iii) procedural requirements applicable to acquisitions and dispositions of federal Crown lands.
94. Westbank First Nation shall be responsible for determining whether the criteria referred to in section 91 have been fulfilled. Westbank First Nation's determination shall be definitive and can be relied upon as such by Canada.

Related Provisions:

Part X - Westbank Lands and Land Management

Sheet #4

Westbank First Nation Lands Register

Paragraph(s): 96 - 101

Parties: Westbank First Nation
Canada, DIAND, BC Region

Obligations Addressed: A Westbank Lands Register will be established to register interests in Westbank Lands.

Activities	Responsibility	Timing
1. Canada will continue to provide for a Westbank Lands Register for the registration of interests in Westbank Lands.	Canada	Prior to Effective Date
2. Westbank First Nation and Canada shall develop criteria or procedures to accommodate the registration of interests not accommodated specifically in the <i>Indian Act</i> .	Westbank First Nation, Canada	As Required
3. Existing legal interests in Westbank Lands at Effective Date, will continue to be identified, recognized and recorded in the Westbank Lands Register	Canada	As of Effective Date, for the duration of those interests
4. Should Westbank First Nation decide to exercise its jurisdiction to establish a lands register, or participate in an alternate land register, Westbank First Nation will notify Canada of its intention to do so.	Westbank First Nation	Prior to establishment of a new, or participation in alternate lands register
5. Westbank First Nation and Canada will meet to establish procedures for the transition from the Westbank Lands Register set up and maintained by Canada to the Lands Register established by Westbank First Nation or an alternate land register.	Westbank First Nation, Canada	Prior to the finalization of the new or participation in the alternate lands register

Planning Assumptions

- Westbank First Nation does not intend to establish a lands register in the near future.
- Until such time as Westbank First Nation exercises its jurisdiction to establish a lands register, Canada will continue to provide a lands registry for Westbank Lands.

Legislative/Regulatory Amendments

Final Agreement Provisions:

96. (a) Westbank First Nation has jurisdiction to establish a lands register for Westbank Lands. Any register for Westbank Lands established by Westbank First Nation shall be at least equivalent to the register referred to in subsection 96(b)(i) existing prior to the exercise of this jurisdiction.
- (b) Until such time as Westbank First Nation exercises its jurisdiction to establish a lands register, interests in Westbank Lands are to be registered in:
- (i) a register to be known as the Westbank Lands Register established by Canada for the registration of interests in Westbank Lands, to be administered, subject to subsection 96(b)(ii), in the same manner as the Reserve Land Register established under the *Indian Act*; or
- (ii) in an alternative register system established for the registration of interests in Westbank Lands pursuant to an agreement between Westbank First Nation and Canada.
- (c) In the event that an alternative register system has been established pursuant to subsection 96(b)(ii), the Westbank Lands Register referred to in subsection 96(b)(i) shall no longer register interests in Westbank Lands.
97. Either Westbank Lands register referred to in subsection 96(b) shall accommodate the registration of interests not accommodated specifically in the *Indian Act*, in accordance with criteria or procedures to be agreed upon by Canada and Westbank First Nation.
98. Document processing shall take place at a Westbank First Nation land registry office. Original documents concerning transactions affecting interests in Westbank Lands, once processed, shall be forwarded to the Westbank Lands Register or its successor referred to in subsection 96(b)(ii) for registration until Westbank First Nation exercises jurisdiction under subsection 96(a) to establish a lands register.
99. Interests in Westbank Lands existing as of the Effective Date shall be recognized and recorded in the Westbank Lands Register or its successor referred to in subsection 96(b)(ii).
100. Until such time as the coming into force of the Westbank Law enacted pursuant to jurisdiction described in subsection 96(a), section 21 of the *Indian Act* continues to apply.
101. Until the coming into force of the first Westbank Law enacted pursuant to subsection 96(a), any improvements to the Reserve Land Register administered under the *Indian Act* shall be applied to the Westbank Lands Register.

Related Provisions: 87 - 91

Part X - Westbank Lands and Land Management

Sheet #4

Additional Reserve Lands (Permissive)

Paragraph(s): 102

Parties: Westbank First Nation
Canada, BC Region and HQ LTS

Obligations Addressed: Subject to agreement, lands acquired by Westbank First Nation may be set apart by Canada as reserves for the use and benefit of Westbank First Nation.

Activities	Responsibility	Timing
1. Canada and Westbank First Nation may negotiate agreement with regards to the creation of reserve Lands.	Westbank First Nation; Canada	As required after the Effective Date
2.. On agreement, creation of reserve lands will proceed according to Canada's existing policies and procedures.	Canada	After agreement on activity 1

Planning Assumptions

Legislative/Regulatory Amendments

Final Agreement Provisions:

102. Subject to Canada's policy for additions to reserve, as amended from time to time, lands acquired by Westbank First Nation may be transferred to Canada for the purpose of being set apart as lands reserved for Indians under subsection 91(24) of the *Constitution Act, 1867* and as reserves for the use and benefit of Westbank First Nation within the meaning of that term under the *Indian Act*.

Related Provisions:

Part X - Westbank Lands and Lands Management

Sheet #5

Surveys

Paragraph(s): 104

Parties: Westbank First Nation
Canada (Natural Resources Canada)

Obligations Addressed: Where Westbank First Nation authorizes surveys of Westbank Lands, they will be conducted in accordance with the *Canada Lands Survey Act* and the *Canada Lands Surveyors Act*.

Activities	Responsibility	Timing
1. Westbank First Nation will request and authorize surveys in accordance with the rules established in the Constitution regarding Westbank Lands, NRCan survey standards and applicable federal acts.	Westbank First Nation	as desired after Effective Date
2. Westbank and Canada will negotiate a Memorandum of Understanding with regard to surveys, and registration of surveys of Westbank Lands	Westbank First Nation, Natural Resources Canada	Prior to Effective Date

Planning Assumptions

Legislative/Regulatory Amendments

Final Agreement Provisions:

104. Westbank First Nation may cause surveys to be made of Westbank Lands in accordance with the *Canada Lands Surveys Act* and the *Canada Lands Surveyors Act*.

Related Provisions: 103

Part X - Westbank Lands and Land Management

Sheet #6

Marriage Breakdown

Paragraph(s): 108

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation will establish rules and procedures applicable to use, occupancy and possession of Westbank Lands and the division of interests in these lands upon marriage breakdown involving at least one Westbank Member.

Activities	Responsibility	Timing
1. Westbank First Nation will consult with its Members in drafting a law setting out rules and procedures regarding use, occupancy and possession, including division of interests in lands, resultant from marriage breakdown involving at least one Westbank Member.	Westbank First Nation	Within 12 months of Effective Date
2. Westbank First Nation will notify Canada in Accordance with Activity Sheet - Notification to Canada of Westbank Laws	Westbank First Nation	In accordance with notification procedures

Planning Assumptions

- Laws enacted by Westbank First Nation as a result of this provision shall not discriminate on the basis of gender, but may differentiate on the basis of Membership.

Legislative/Regulatory Amendments

Final Agreement Provisions:

108. (a) Westbank First Nation has jurisdiction in relation to treatment of interests in Westbank Lands on marriage breakdown involving at least one Member and shall enact a law within twelve months of the Effective Date setting out rules and procedures applicable on the breakdown of a marriage to use, occupancy and possession of Westbank Lands and the division of interests in these lands.
- (b) For greater certainty, the laws referred to in subsection 107(a) shall not discriminate on the basis of sex but may distinguish as between Members and non-Members for the purpose of determining what type of interest in Westbank Lands may be held by an individual.
- (c) Any dispute between Canada and Westbank First Nation in respect of this section shall be subject to arbitration following the rules provided in section 271.

Related Provisions: Part XXX

Part X - Westbank Lands and Land Management

Sheet #7

Federal Expropriation

Paragraph(s): 111 - 131

Parties: Canada; Westbank First Nation

Obligations Addressed: Canada may only expropriate interests in Westbank Lands if the expropriation is in accordance with the provisions of the Agreement and necessary for a federal public purpose.

Activities	Responsibility	Timing
1. If Canada wishes to expropriate an estate or interest in a parcel of Westbank Lands, Canada will first determine if alternatives to expropriation are reasonably feasible, other lands suitable for the federal public purpose are reasonably available.	Canada	Before the Governor in Council considers and expropriation
2. If no other suitable lands are reasonably available, Canada will make reasonable efforts to acquire the interest in Westbank land through agreement with Westbank First Nation.	Canada; Westbank First Nation	Before the Governor in Council considers and expropriation
3. If Canada decides to seek the consent of the Governor in Council for an expropriation, Canada must be able to demonstrate to the Governor in Council that the expropriation is necessary for a federal public purpose, and that the conditions of Section 113 of the Agreement have been met.	Canada	At the time of request for consent of the Governor in Council
4. Canada will provide Westbank First Nation with a public report on the reasons for the expropriation and the steps taken to satisfy the expropriation procedure outlined in the Agreement.	Canada; Westbank First Nation	Prior to the Governor in Council issuing an order of consent
5. Where the Governor in Council consents to the expropriation, Canada will provide compensation to Westbank First Nation pursuant to the provisions of the Agreement and negotiate with Westbank First Nation the terms of reversion of interest in Westbank land	Canada; Westbank First Nation	As soon as practicable after consent
6. If the agreed compensation is land, on agreement creation of reserve lands will proceed according to Canada's existing policies and procedures.	Canada, Westbank First Nation	If agreed

7.	Westbank First Nation or Canada may refer a dispute in respect of the value and nature of compensation or the terms of reversion for resolution as set out in this Part and in Part XXX.	Westbank First Nation; Canada	As desired
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Planning Assumptions

Legislative/Regulatory Amendments

Final Agreement Provisions:

111. The Parties declare that it is of fundamental importance to maintain the amount and integrity of Westbank Lands, and they therefore agree, as a general principle, that Westbank Lands will not be expropriated.
112. Notwithstanding the general principle against expropriation, interests in Westbank Lands may be expropriated in accordance with federal legislation:
 - (a) only with the consent of the Governor-in-Council; and
 - (b) only for the use of a federal department, agency or other entity as described in the legislation.
113. The Governor-in-Council shall only consent to an expropriation of interests in Westbank Lands if the expropriation is justifiable in accordance with section 114 and necessary for a federal public purpose that serves the national interest.
114. The Governor in Council shall not consent to an expropriation unless satisfied that:
 - (a) alternatives to expropriation have been considered and such alternatives are not reasonably feasible;
 - (b) there are no non-Westbank Lands reasonably available;
 - (c) reasonable efforts have been made to acquire the interest in land through agreement with Westbank First Nation;
 - (d) the interest being taken is the smallest reasonably necessary and the term for which it is taken is the shortest reasonably required; and
 - (e) Westbank First Nation has been provided with information relevant to the expropriation.
115. Prior to the Governor-in-Council issuing an order consenting to the expropriation of Westbank Lands, Canada shall make public a report on the reasons justifying the expropriation and the steps taken in satisfaction of this expropriation procedure and shall provide a copy of the report to Westbank First Nation.
116. Where Westbank First Nation objects to a proposed expropriation, it may refer the issue to a mediator under Part XXX within 60 days of receiving a copy of the report referred to in section 115.
117. An order of the Governor-in-Council consenting to the expropriation shall not be issued earlier than:
 - (a) the end of the 60 day period referred to in section 116; and
 - (b) the day the opinion or recommendation of the mediator is released, where Westbank First Nation referred the proposed expropriation to a mediator under section 116.
118. Where an interest in Westbank Lands is expropriated under sections 111 to 117, compensation shall be provided to Westbank First Nation consisting of:
 - (a) land; and
 - (b) any additional compensation required to achieve the total compensation determined under section 120.

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119. Land provided to Westbank First Nation as compensation may be of an area that is less than the area of the land in which an interest has been expropriated only if the total area of the land comprised in Westbank Lands is not less following the expropriation than at the Effective Date.
120. The total compensation shall be determined taking into account the following factors:
- (a) the market value of the expropriated interest or of the land in which an interest has been expropriated;
 - (b) the replacement value of any improvement to the land;
 - (c) any expenses or losses resulting from a disturbance attributable to the expropriation;
 - (d) any reduction in the value of any interest in Westbank Lands that is not expropriated;
 - (e) any adverse effect on any cultural or other special value of the land to the Westbank First Nation; and
 - (f) the value of any special economic advantage arising out of or incidental to the occupation or use of the land to the extent that value is not otherwise compensated.
121. If the value and nature of the compensation cannot be agreed upon by Canada or the entity described in subsection 112(b) and Westbank First Nation, either party may refer a dispute on compensation to binding arbitration under Part XXX, other than for expropriation under the *National Energy Board Act*.
122. For expropriation under the *National Energy Board Act*:
- (a) disputes over compensation shall be referred to a board, committee, panel or other body authorized by the *National Energy Board Act* to settle disputes in respect of expropriation;
 - (b) the board, committee, panel or other body referred to under subsection 122(a) shall include at least one nominee of Westbank First Nation; and
 - (c) the board, committee, panel or other body referred to under subsection 122(a) shall be comprised of persons who have knowledge of, and experience related to the criteria set out in section 120.
123. Any claim or encumbrance in respect of the interest expropriated may only be claimed against the amount of compensation that is otherwise payable to the person or entity whose interest is being expropriated.
124. Interest on the compensation is payable from the date the expropriation takes effect, at the same rate as for prejudgment interest in the Supreme Court of British Columbia.
125. Where less than the full interest of the Westbank First Nation in Westbank Lands is expropriated:
- (a) the land retains its status as Westbank Lands;
 - (b) the land remains subject to Westbank Law that is otherwise applicable, except to the extent that such Westbank Law is inconsistent with the expropriation; and,
 - (c) Westbank First Nation may continue to use and occupy the land, except to the extent the use or occupation is inconsistent with the expropriation.
126. Alternate lands accepted by Westbank First Nation from Canada as part of the compensation shall become Westbank Lands and shall be set apart by Canada as a reserve within the meaning of that term defined in the *Indian Act*, and as subsection 91(24) lands as set out in the *Constitution Act, 1867*.
127. Where an expropriated interest in Westbank Lands, which is less than the full interest of Westbank First Nation in Westbank Lands, is no longer required by Canada or the entity described in section 112(b) for the purpose for which it was expropriated, the interest in land shall revert to Westbank First Nation.
128. The Minister responsible for the expropriating department or agency may, without the consent of the Governor-in-Council, decide that the land is no longer required and determine the disposition of any improvements.
129. Where an interest in Westbank Lands was expropriated but is no longer required by Canada or the entity

described in the legislation for the purpose for which it was expropriated, the land shall be returned to Westbank First Nation on terms negotiated by Westbank First Nation and Canada, and where appropriate, the entity described in the legislation.

130. Where the terms and conditions of the return cannot be agreed upon by Westbank First Nation and Canada and, where appropriate, the entity described in the legislation, either party may refer the dispute to arbitration under Part XXX.
131. The Minister responsible for the expropriating department or agency may, without the consent of the Governor-in-Council, decide that the land is no longer required and determine the disposition of any improvements.

Related Provisions:

Part XI - Landlord and Tenant

Sheet #1

Landlord and Tenant

Paragraph(s): 133

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may pass law in relation to landlord tenant matters.

Activities	Responsibility	Timing
1. Westbank First Nation will review existing residential tenancy by-law. This by-law review will be in accordance with by-law review process described in Activity Sheet - Application of Existing Westbank First Nation By-Laws.	Westbank First Nation	Prior to Effective Date
2. The Westbank First Nation Residential Premises by-law as amended will become a Westbank Law on the Effective Date and future amendments will be made in accordance with the procedure set out in the Constitution.	Westbank First Nation	To be determined after Effective Date
3. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	Prior to Effective Date

Planning Assumptions

- Westbank's existing Residential Premises by-law, as amended, will become Westbank First Nation law. Westbank First Nation utilizes arbitrators for the administrative adjudication of disputes.

Final Agreement Provisions:

133. Westbank First Nation has jurisdiction in relation to landlord and tenant matters with respect to Westbank Lands and premises on Westbank Lands. This shall include jurisdiction in relation to residential premises, commercial premises, manufactured home parks and agricultural land for matters including:
- (a) remedies for breach of agreements;
 - (b) procedures for rent increases;
 - (c) notice provisions;
 - (d) termination and regaining of possession;
 - (e) procedures for manufactured home installation;
 - (f) compliance with health and safety codes;
 - (g) dispute resolution and appeal mechanisms;
 - (h) procedures for amendment of agreements; and
 - (i) requirements for creation of agreements.

Related Provisions:

Part XII - Resource Management

Sheet #1

Renewable and Non-Renewable Resources (Permissive)

Paragraph(s): 135 - 139

Parties: Westbank First Nation
Canada, Environment Canada, BC Region

Obligations Addressed: Westbank First Nation may pass law pursuant to the Agreement with regard to renewable and non-renewable resources.

Activities	Responsibility	Timing
1. Westbank First Nation will review and amend as necessary any by-laws relating to resource management pursuant to the Agreement. The by-law review will be in accordance with the process described in Activity Sheet - Application of Existing Westbank First Nation By-Laws.	Westbank First Nation	Prior to Effective Date
2. Should Westbank First Nation pass a law pursuant to the Agreement, dealing with aspects of resource management on Westbank Lands not covered in the Constitution, Westbank First Nation will pass the law in accordance with procedure set out in the Constitution.	Westbank First Nation	As desired
3. Should either Party have concerns regarding the conservation of migratory birds, either Party may give notice in writing to the other of its desire to negotiate a co-management arrangement to address these conservation concerns pursuant to paragraph 137.	Westbank First Nation, Canada	As desired

Planning Assumptions

- Westbank First Nation will draw down jurisdiction over resource management on the Effective Date.
- Jurisdiction and activities arising from this section are linked to jurisdictions and activities related to lands and to environment.
- Those aspects of Resource Management that are not covered in the Constitution will be covered by other law.
- Laws addressing renewable and non-renewable resources, whether part of the Constitution or other law will come into force on the Effective Date.
- Law with regard to natural resources must be in place prior to transfer of Indian Monies Accounts.

Legislative/Regulatory Amendments

Final Agreement Provisions:

135. Westbank First Nation has jurisdiction in relation to renewable resources situated on, under or above Westbank Lands including protection, conservation, management, development and disposition of renewable resources, except water which is addressed in section 136; this jurisdiction includes:
- (a) preservation and management of wildlife, including game, birds, fur bearing animals, and their natural habitat;
 - (b) hunting and trapping of wildlife; and
 - (c) preservation and management of the forest resource, including forest enhancement and pest control;
- but does not include fish and fish habitat.
136. To the extent that Westbank First Nation has rights over water as recognized by federal or provincial legislation or by operation of law, Council has jurisdiction to manage and regulate water use.
137. Where there are conservation concerns of either Party relating to migratory birds, Westbank First Nation and Canada shall cooperate to establish appropriate co-management arrangements where necessary to address conservation concerns.
138. Westbank First Nation has jurisdiction on Westbank Lands in relation to non-renewable resources, including but not limited to:
- (a) oil, oil shales and gas; and
 - (b) gravel, clay, sand, soil, stone, peat, coal, bitumen, limestone, marble, gypsum, ash, marl, any building stones mined for building purposes or any other element forming part of the agricultural surface of Westbank Lands;
- but not including Minerals and uranium mining, refining and handling.
139. Without limiting the generality of section 138, the jurisdiction referred to in section 138 includes the authority to make laws in relation to the non-renewable resources listed therein respecting:
- (a) management, exploration, exploitation, development and disposition of those resources;
 - (b) issuance of permits and leases for development and disposition of those resources and regulation of conditions, including suspension and revocation of those permits or leases; and
 - (c) control of administrative functions including revenue collection in relation to permits or leases for exploration, development and disposition of resources.

Related Provisions: 43(j), 87 - 91

Part XIII - Agriculture

Sheet #1

Agriculture (Permissive)

Paragraph(s): 141, 143

Parties: Westbank First Nation
Canada

Obligations Addressed: Westbank First Nation may pass law, pursuant to the Agreement, with regard to agriculture on Westbank land. Until the coming into force of Westbank Law in this respect, relevant provisions of the *Indian Act* will continue to apply.

Activities	Responsibility	Timing
1. Should Westbank First Nation pass a law on Agriculture pursuant to the Agreement, Westbank First Nation will pass the law in accordance with procedures set out in the Constitution.	Westbank First Nation	As desired
2. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	60 days before coming into force

Planning Assumptions

Legislative/Regulatory Amendments

Final Agreement Provisions:

141. Westbank First Nation has jurisdiction in relation to agriculture on Westbank Lands.
143. Until such time as the coming into force of the first Westbank Law enacted pursuant to the jurisdiction described in this Part, paragraph 73(1)(b) and any regulation made thereunder, and subsections 58(1) and (2) of the *Indian Act* shall continue to apply.

Related Provisions:

Part XIV - Environment

Sheet #1

Environmental Protection

Paragraph(s): 148, 149, 150, and 152

Parties: Westbank First Nation

Obligations Addressed: Should Westbank First Nation pass laws for this subject matter they will be in accordance with the Agreement.

Activities	Responsibility	Timing
1. Westbank First Nation will review existing by-laws to determine whether any by-law corresponds to environmental protection as a subject matter.	Westbank First Nation	Prior to the Effective Date
2. If there is a corresponding by-law on environmental protection, Westbank First Nation will determine whether to repeal, amend, or retain it.	Westbank First Nation	Prior to the Effective Date
3. Westbank First Nation may create laws pursuant to section 148 which meet the criteria established in section 149 (a). Such Westbank First Nation environmental law may also provide for enforcement measures and capacities in accordance with sections 155 and 156.	Westbank First Nation	Prior to the Effective Date
4. Should Westbank First Nation pass law in this area, Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	In accordance with notification procedures.

Planning Assumptions

- Westbank First Nation does not intend to draw down this jurisdiction in the immediate future and intends to work with Canada on Environmental Protection matters.
- Since on Effective Date, any existing *Indian Act* by-laws will be automatically converted into Westbank Law, Westbank First Nation will review and repeal any by-laws that would serve to inadvertently draw down jurisdiction over environmental protection.

Legislative/Regulatory Amendments

Final Agreement Provisions:

148. Westbank First Nation has jurisdiction in relation to the protection and conservation of the environment on Westbank Lands.
149. (a) The laws and regulations created pursuant to section 148 shall be designed to be at least equivalent in standard to those set out under federal law and provincial laws of general application, including provisions for emergency measures, which could be enforced on Westbank Lands.
(b) For greater certainty, subsection 149(a) is not intended to expand or increase the application of provincial laws on Westbank Lands or to impose provincial processes, structures or standards on Westbank Lands, where they would not be otherwise applicable.
150. In the event of a conflict between federal law in relation to the protection and conservation of the environment and Westbank Law enacted in accordance with any provisions of this Agreement, the federal law shall prevail to the extent of the conflict.
152. Until such time as the coming into force of any Westbank Law enacted pursuant to the jurisdiction referred to in this Part, paragraph 73(1)(k) of the *Indian Act* and any regulations made thereunder continue to apply.

Related Provisions 155 - 157, 196(b)

Part XIV - Environment

Sheet #2

Environmental Assessment

Paragraph(s): 159 - 165, 169 and 174

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation laws for this subject matter shall be in accordance with the Agreement.

Activities	Responsibility	Timing
1. Westbank will review existing by-laws to determine whether any by-law corresponds to environmental assessment as a subject matter	Westbank First Nation	Before the Effective Date
2. If there is a corresponding by-law on environmental assessment, Westbank First Nation will determine whether to repeal, amend or retain it.	Westbank First Nation	Before the Effective Date
3. Westbank First Nation will develop laws pursuant to section 159. Such Westbank First Nation environmental assessment law may also provide for enforcement measures and capacities in accordance with sections 155, 156 and 197(b).	Westbank First Nation	Within 12 months following the Effective Date
4. When Westbank First Nation passes law in this area, Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	In accordance with notification procedures.

Planning Assumptions

- Westbank First Nation will pass Environmental Assessment laws within 12 months of the Effective Date and as outlined in Sheet 5 will seek to harmonize Westbank First Nation's Environmental Assessment regime with that of Canada.

Legislative/Regulatory Amendments

Final Agreement Provisions:

159. Westbank First Nation has jurisdiction in relation to environmental assessment for projects on Westbank Lands.
160. Westbank Law in relation to environmental assessment shall provide for a determination of projects on Westbank Lands that are subject to an environmental assessment.
161. The Westbank First Nation environmental assessment process shall provide that projects subject to an

environmental assessment, as determined under the laws and regulations created pursuant to section 159, cannot be authorized until such an environmental assessment has been conducted and the proper authorization has been obtained by the proponent.

162. Any laws and regulations created pursuant to section 159 establishing an environmental assessment process shall maintain or exceed the requirements of the *Canadian Environmental Assessment Act*.
163. For greater certainty, where the following requirements are contained in the *Canadian Environmental Assessment Act*, the Westbank First Nation environmental assessment process established pursuant to section 159 shall provide:
- (a) that the following factors are taken into consideration in the environmental assessment process:
 - (i) the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
 - (ii) the significance of the environmental effects;
 - (iii) comments from the public received in accordance with Westbank First Nation environmental assessment laws;
 - (iv) measures that are technically and economically feasible and would mitigate any significant adverse environmental effects of the project; and
 - (v) where projects are likely to have significant adverse environmental effects, provide for the consideration of the following additional factors:
 - (A) the purpose of the project;
 - (B) alternative means of carrying out the project that are technically feasible and the environmental effects of any such alternative means;
 - (C) the need for, and the requirements of, any follow-up program in respect of the project; and
 - (D) the capacity of renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future;
 - (b) where appropriate, for public participation and public access to the environmental assessment information in the assessment of the project;
 - (c) the opportunity for mediation or establishment of a review panel where a project is likely to have significant adverse environmental effects;
 - (d) for a requirement that decision makers take the environmental assessment report, and, where applicable, the implementation of the mitigation measures into consideration prior to taking any action or making any decision that would enable the project to be carried out in whole or in part;
 - (e) for any decision-making authority in relation to the project to ensure that the mitigation measures are implemented; and
 - (f) for any other activities or principles that facilitate an effective and efficient assessment.
164. The Westbank First Nation environmental assessment process shall be structured to promote the implementation of the “proponent pays principle” which establishes that proponents are responsible for costs associated with the environmental assessment process including the preparation of the environmental assessment report, mitigation measures, follow-up programs and public consultation.
165. For greater certainty, any laws created under section 159 shall not diminish the federal government’s ability to set and implement national standards, voluntary and regulatory, for environmental assessments.
169. Where a project is subject to the Westbank First Nation environmental assessment process, Council may, by order, prohibit the proponent from undertaking any work in advance of the completion of the environmental assessment pursuant to Westbank Law.
174. Westbank First Nation shall enact laws establishing a Westbank First Nation environmental assessment process in accordance with this Part. These laws shall come into force within 12 months of the Effective

Date.

Related Provisions 151, 155 - 157, 166 - 168, 196(b)

Part XIV - Environment

Sheet #3

Coordination of Environmental Functions on Westbank Lands (Permissive)

Paragraph(s): 153

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may enter into agreements with other governments to enhance cooperation and coordination of respective environmental functions on Westbank Lands.

Activities	Responsibility	Timing
1. Westbank First Nation may notify Canada or other governments of its interest in entering into an agreement to enhance cooperation and coordination in the development and implementation of their respective environmental functions on Westbank Lands.	Westbank First Nation	As desired after Effective Date
2. If mutually agreed, the governments will meet to attempt to negotiate such an agreement.	Westbank First Nation, Canada and other governments as appropriate	As determined by the parties to the meeting
3. If agreement is reached, it will be implemented in accordance with its terms and conditions.	Westbank First Nation, Canada and other governments as appropriate	As agreed

Planning Assumptions

The Parties recognize the importance of cooperation and coordination of environmental regimes to facilitate efficient and effective application and avoid duplication.

Legislative/Regulatory Amendments

Final Agreement Provisions:

153. Westbank First Nation may enter into agreements with Canada or other governments to enhance cooperation and coordination in the development and implementation of their respective environment functions on Westbank Lands.

Related Provisions 154, 196(b), 225

Part XIV - Environment

Sheet #4

Environmental Emergency Response and Notification

Paragraph(s): 154

Parties: Westbank First Nation

Obligations Addressed: Either Party may respond to an Environmental Emergency on an urgent basis with the responding party notifying the other as soon as is practicable.

Activities	Responsibility	Timing
1. In the event of an Environmental Emergency, either Party may respond if the other Party does not or is unable to respond to the Environmental Emergency.	Westbank First Nation, Canada	As required after the Effective Date.
2. The responding party will notify the other of the Environmental Emergency, the measures taken to prevent, correct or respond.	Westbank First Nation, Canada	As soon as is practicable.
3. Procedures for mutual notification in the event of an environmental emergency on Westbank Lands will be reviewed.	Westbank First Nation, Canada	As agreed after the Effective Date.

Planning Assumptions

- The Parties acknowledge the importance of timely and effective response to environmental emergencies.
- Subject to Section 154, current procedures and responsibilities for environmental emergency prevention, preparedness and response will continue to apply on Westbank Lands until such time as an intergovernmental agreement is reached that determines otherwise.

Legislative/Regulatory Amendments

Final Agreement Provisions:

154. (a) If the Party who has primary responsibility to respond to an Environmental Emergency does not respond or is unable to respond to an Environmental Emergency in a timely manner, the other Party may respond to the Environmental Emergency.
- (b) The responding Party will notify the Party with primary responsibility as soon as practicable of the Environmental Emergency, and of the measures taken by the responding Party to prevent, correct or respond to the Environmental Emergency.

Related Provisions 153, 196(b), 225

Part XIV - Environment

Sheet #5

Negotiation of Harmonization Agreement for Environmental Assessment

Paragraph(s): 170

Parties: Westbank First Nation

Obligations Addressed: The Parties will attempt to reach agreement on harmonizing their respective environmental assessment regimes and processes to promote effective, consistent environmental regimes and processes and avoid uncertainty and duplication.

Activities	Responsibility	Timing
1. As soon as practicable after the Effective Date, Westbank First Nation will notify Canada in writing of its interest in beginning the negotiation of a harmonization agreement with respect to environmental assessment.	Westbank First Nation, Canada	As desired, but within 12 months of the Effective Date
2. The Parties will convene the first meeting of the negotiations.	Westbank First Nation, Canada	As agreed by the Parties
3. If agreement is reached, the Parties will implement the agreement in accordance with its terms and conditions.	Westbank First Nation, Canada	As agreed.

Planning Assumptions

- The province is not a signatory to this agreement but will be invited to participate and may participate where it agrees.

Legislative/Regulatory Amendments

Final Agreement Provisions:

170. Canada and Westbank First Nation agree to negotiate and attempt to reach agreement on harmonizing their respective environmental assessment regimes and processes, with the involvement of the province where the province agrees to participate, to promote effective and consistent environmental assessment regimes and processes and to avoid uncertainty and duplication.

Related Provisions 153, 171, 173

Part XIV - Environment

Sheet #6

Environmental Assessment - Reciprocal Involvement

Paragraph(s): 172

Parties: Westbank First Nation

Obligations Addressed: Where a project is subject to the environmental assessment process of either Party or where either Party undertakes a public review pursuant to their respective environmental assessment process, and the project in question is likely to have significant adverse environmental effects on the other Party, the Parties will proceed in accordance with the procedures established in section 172.

Activities	Responsibility	Timing
1. Where either Party undertakes a public review pursuant to their respective environmental assessment process for a project that is likely to have significant adverse environmental effects on the other, the affected Party nominate a member on the panel.	Westbank First Nation, Canada	As required after Effective Date.
2. Where a project subject to the environmental assessment process of either Party is likely to have significant adverse environmental effects on the other, the Party responsible for the assessment shall provide timely notice and relevant information to the other in accordance with section 172.	Westbank First Nation, Canada	As required after Effective Date
3. The responsible Party in 2 above will consult with and provide the other Party an opportunity to participate in the environmental assessment of the project.	Westbank First Nation, Canada	As required after Effective Date

Planning Assumptions

Legislative/Regulatory Amendments

Final Agreement Provisions:

172. (a) Where Canada undertakes a public review pursuant to the *Canadian Environmental Assessment Act* for a project which is likely to have significant adverse environmental effects on Westbank Lands, Westbank First Nation shall be entitled to nominate a person to the panel.
- (b) Where a project is subject to the *Canadian Environmental Assessment Act* and is likely to have significant adverse environmental effects on Westbank Lands, Canada shall ensure that Westbank First Nation:
- receives timely notice of, and relevant information in Canada's possession on, the project and the potential environmental effects, subject to relevant privacy legislation; and
 - is consulted and provided with an opportunity to participate in the environmental assessment applicable to the project.

- (c) Where Westbank First Nation undertakes a public review pursuant to its environmental assessment process for a project that is likely to have significant adverse environmental effects on other federal Crown land, Canada shall be entitled to nominate a person to the panel.
- (d) Where a project subject to the Westbank First Nation environmental assessment process is likely to have significant adverse environmental effects on other federal Crown lands, Westbank First Nation shall ensure that Canada:
 - (i) receives timely notice of, and relevant information in Westbank First Nation's possession on, the project and the potential environmental effects, subject to relevant privacy legislation; and
 - (ii) is consulted and provided with an opportunity to participate in the environmental assessment applicable to the project.

Related Provisions 168, 170

Part XV - Culture and Language

Sheet #1

Culture and Language Laws (Permissive)

Paragraph(s): 175

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may pass law, pursuant to this Part of the Agreement, with regard to Okanagan culture and language on Westbank Lands. Until the coming into force of such Westbank Law, relevant provisions of the *Indian Act* will continue to apply.

Activities	Responsibility	Timing
1. Should Westbank First Nation pass a law with respect to culture and language pursuant to this section of the Agreement, Westbank First Nation will pass the law in accordance with procedures set out in the Constitution.	Westbank First Nation	As desired after the Effective Date
2. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Law	Westbank First Nation	60 days before coming into force.

Planning Assumptions

- Provisions in this Part are not intended to impact on other Okanagan Communities.
- Westbank First Nation intends to work with other Okanagan Communities with regard to Okanagan culture and language.

Legislative/Regulatory Amendments

Final Agreement Provisions:

175. Westbank First Nation has jurisdiction in relation to preservation, promotion and development of Okanagan culture and language on Westbank Lands including:
- (a) the management, preservation and protection of archaeological sites on Westbank Lands including the issuance of permits and licences for excavation of archaeological sites;
 - (b) the management, disposal and development of, and access to burial sites and heritage sites which are located on Westbank Lands and which are of spiritual or religious significance to Members;
 - (c) the conservation, management and disposal of objects on Westbank Lands which are of religious or cultural significance to Members;
 - (d) use, preservation and promotion of Okanagan language; and
 - (e) authorization or accreditation for the use, reproduction and representation of Okanagan cultural symbols and practices and the teaching of Okanagan language on Westbank Lands.

Related Provisions: 12

Part XV - Culture and Language

Sheet #2

Treatment of Human Remains

Paragraph(s): 179 (a)

Parties: Canada (Canadian Museum of Civilization)
Westbank First Nation

Obligations Addressed: Should Canada find in its possession human remains having come from Westbank Lands, Canada will treat such remains in accordance with its legislation, policy and procedures.

Activities	Responsibility	Timing
1. Canada will treat human remains identified as having come from Westbank lands in accordance with legislation, policy and procedures in this regard.	Canada	as required

Planning Assumptions

- There are currently no human remains in Canada's possession documented as having come from Westbank Lands.
- Return of human remains will be done in accordance with a plan made in consultation with Westbank First Nation.

Legislative/Regulatory Amendments

Final Agreement Provisions:

179. (a) Canada has no human remains as documented as having come from Westbank Lands. In the event that human remains having come from Westbank Lands are discovered in Canada's possession, Canada shall treat those remains in accordance with existing federal legislation, policies and procedures.

Related Provisions: 12

Part XV - Culture and Language

Sheet #3

Return of Westbank First Nation Artifacts

Paragraph(s): 179 (b)

Parties: Westbank First Nation
Canada (Canadian Museum of Civilization)

Obligations Addressed: Westbank First Nation and Canada will attempt to reach agreement on the possible return of artifacts, specifically attributable to Westbank First Nation, which are held by the Canadian Museum of Civilization.

Activities	Responsibility	Timing
1. Westbank First Nation or the Canadian Museum of Civilization will initiate negotiation to reach an agreement regarding the possible return of Okanagan artifacts specifically attributable to Westbank First Nation which are held by the Canadian Museum of Civilization by delivering a written request to the other party to commence negotiation.	Westbank First Nation, Canadian Museum of Civilization	As desired after the Effective Date
2. The Westbank First Nation and the Canadian Museum of Civilization shall convene the first meeting of the negotiations.	Westbank First Nation, Canadian Museum of Civilization	At such time as agreed by the Parties.
3. If Westbank First Nation and the Canadian Museum of Civilization reach agreement on the return of Westbank artifacts, they will implement the agreement in accordance with the terms and conditions of that agreement.	Westbank First Nation, Canadian Museum of Civilization	As agreed

Planning Assumptions

- It is not anticipated that there are a significant number of artifacts in the Canadian Museum of Civilization collection attributable to Westbank First Nation.
- Westbank First Nation intends to work with other Okanagan Nations with regard to Okanagan artifacts.

Legislative/Regulatory Amendments

Final Agreement Provisions:

179. (b) Canada and Westbank First Nation shall negotiate and attempt to reach agreement regarding the possible return of Okanagan artifacts reasonably attributable to Westbank First Nation held by the Canadian Museum of Civilization to Westbank First Nation.

Related Provisions: 12

Part XV - Culture and Language

Sheet #4

Negotiation of Custodial Agreements for Westbank Artifacts

Paragraph(s): 179 (c), (d)

Parties: Westbank First Nation
Canada (Canadian Museum of Civilization)

Obligations Addressed: Westbank First Nation and Canada will attempt to reach agreement on custodial arrangements regarding artifacts, reasonably attributable to Westbank First Nation.

Activities	Responsibility	Timing
1. Westbank First Nation or the Canadian Museum of Civilization will initiate negotiation of a custodial arrangement in respect of Okanagan artifacts, reasonably attributable to Westbank First Nation, by delivering a written request to the other party to commence negotiation.	Westbank First Nation, Canadian Museum of Civilization	As desired after Effective Date
2. The Westbank First Nation and the Canadian Museum of Civilization shall convene the first meeting of the negotiations.	Westbank First Nation, Canadian Museum of Civilization	As agreed by the Parties.
3. If Westbank First Nation and the Canadian Museum of Civilization reach agreement on a custodial arrangement, they will implement the agreement in accordance with the terms and conditions of that agreement.	Westbank First Nation, Canadian Museum of Civilization	as agreed

Planning Assumptions

- It is not anticipated that there are a significant number of artifacts in the Canadian Museum of Civilization collection attributable to Westbank First Nation.
- Westbank First Nation intends to work with other Okanagan Nations with regard to Okanagan artifacts.

Legislative/Regulatory Amendments

Final Agreement Provisions:

- 179.(c) The Canadian Museum of Civilization and Westbank First Nation shall negotiate and attempt to reach agreements to establish the custodial arrangements in respect of Okanagan artifacts reasonably attributable to Westbank First Nation still remaining with the Canadian Museum of Civilization.
- (d) The agreements negotiated pursuant to subsection 181(c) shall respect the special relationship of the Westbank First Nation and the Okanagan cultural material reasonably attributable to Westbank First Nation and shall comply with federal law and the statutory mandate of the Canadian Museum of Civilization, and may include:
- (i) identification of the Okanagan artifacts reasonably attributable to Westbank First Nation to be in the possession of Westbank First Nation or the Canadian Museum of Civilization at the commencement of any particular agreement;
 - (ii) conditions of maintenance, storage and handling of the Okanagan artifacts reasonably attributable to Westbank First Nation;
 - (iii) conditions of access to and use, including study, display and reproduction, of the Okanagan artifacts reasonably attributable to Westbank First Nation and associated records by the public, researchers and scholars;
 - (iv) provision for incorporating new information into catalogue records and displays of the Okanagan artifacts reasonably attributable to Westbank First Nation; and
 - (v) provision for enhancing public knowledge of the Westbank First Nation through the participation of the Westbank First Nation in public programs and activities at the Canadian Museum of Civilization.

Related Provisions: 12

Part XV - Culture and Language

Sheet #5

Facilitation of Westbank First Nation Access to Other Public and Private Collections

Paragraph(s): 180

Parties: Canada (Canadian Museum of Civilization)
Westbank First Nation

Obligations Addressed: Canada will attempt to facilitate access by Westbank First Nation to Okanagan artifacts in other collections.

Activities	Responsibility	Timing
1. At the written request of Westbank First Nation, Canada will use reasonable efforts to facilitate Westbank First Nation's access to Okanagan artifacts held in other public and private collections.	Westbank First Nation, Canada	After the Effective Date and as soon as is practicable after the receipt of the request.

Planning Assumptions

- Westbank First Nation intends to work with other Okanagan Nations with regard to Okanagan artifacts.

Legislative/Regulatory Amendments

Final Agreement Provisions:

180. Canada shall use reasonable efforts to facilitate Westbank First Nation access to Okanagan artifacts held in other public and private collections.

Related Provisions: 12

Part XVI - Education

Sheet #1

Education (Permissive)

Paragraph(s): 186 - 189

Parties: Westbank First Nation
Canada

Obligations Addressed: Westbank First Nation may pass law and enter into agreements or arrangements, pursuant to this Part of the Agreement with respect to education of Members on Westbank Lands. Until the coming into force of Westbank Law in this respect, relevant provisions of the *Indian Act* will continue to apply.

Activities	Responsibility	Timing
1. Westbank First Nation will review its existing by-laws in accordance with the by-law review procedure set out in Activity Sheet - Application of Westbank First Nation by-laws.	Westbank First Nation	Prior to Effective Date
2. Should Westbank First Nation decide to pass a law on Education pursuant to the Agreement, Westbank First Nation will pass the law in accordance with procedure set out in the Constitution.	Westbank First Nation	As desired after Effective Date
3. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	60 days before coming into force
4. Should Westbank First Nation decide to exercise its jurisdiction over Education, Westbank First Nation will notify the Province of British Columbia and local School board and other affected Institutions of its intended action.	Westbank First Nation	Prior to exercise of jurisdiction

Planning Assumptions

- Westbank First Nation has no existing Education by-law.
- It is not Westbank First Nation's intention to draw down this jurisdiction in the near future.
- Westbank First Nation has an existing Local Education Agreement with School District #23 and intends to continue this relationship for its students attending school off Westbank Land.
- Westbank First Nation currently operates an Independent school.
- Westbank First Nation is currently reviewing the Local Education Agreement to ensure that it reflects the spirit and intent of the Self-Government Agreement.

Legislative/Regulatory Amendments

Final Agreement Provisions:

186. (a) Westbank First Nation has jurisdiction in relation to kindergarten, elementary and secondary education on Westbank Lands for Members.
- (b) The Westbank First Nation education systems shall be designed to permit transfers between education systems without academic penalty to the same extent as transfers are effected between other education jurisdictions in Canada.
187. Without limiting the generality of section 186, Westbank First Nation has the authority to:
- (a) enter into tuition, post-secondary support, capital, curricular, recreational, special needs and other arrangements;
 - (b) create administrative bodies to administer any education program;
 - (c) enter into agreements regarding children of Members who attend school off Westbank Lands;
 - (d) enter into agreements with the province concerning the delivery of provincial services or the application of provincial standards including:
 - (i) curriculum development;
 - (ii) education level equivalencies;
 - (iii) teaching methodologies;
 - (iv) programs and standards;
 - (v) teacher certification;
 - (vi) teacher training and developments; and
 - (vii) evaluation of the education systems;
 - (e) administer post-secondary student support funding for Members living on or off Westbank Lands.
188. Westbank First Nation's exercise of jurisdiction in education shall recognize the importance of compatibility with other education authorities while maintaining Westbank First Nation's right to protect its culture, identity, language and traditions.
189. Until such time as the coming into force of the first Westbank Law enacted pursuant to the jurisdiction described in this Part, sections 114 to 122 of the *Indian Act* shall continue to apply.

Related Provisions: 10

Part XVII - Health Services

Sheet #1

Traditional Medicine (Permissive)

Paragraph(s): 191

Parties: Westbank First Nation
Canada, National Health

Obligations Addressed: Westbank First Nation may choose to pass law with regard to the practice of traditional medicine and the regulation of traditional medicine practitioners on Westbank Land in accordance with the Self-Government Agreement.

Activities	Responsibility	Timing
1. Should Westbank First Nation decide to pass a law on the practice of traditional Okanagan medicine and regulation of practitioners of traditional medicine on Westbank Lands, Westbank First Nation will pass the Law in accordance with the procedure set out in the Constitution.	Westbank First Nation	as desired
2. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	60 days before coming into force

Planning Assumptions

- Westbank First Nation and Canada recognize that this is a limited jurisdiction.
- It is not Westbank First Nation's intention to pass law in this regard at this time.
- The purpose of this provision is to allow Westbank First Nation to regulate the practice of traditional medicine should it be warranted in future.
- Westbank First Nation will continue to provide community health programs and services under the jurisdiction of Canada in accordance with the terms and conditions of any agreement in this respect.

Legislative/Regulatory Amendments

Final Agreement Provisions:

191. Westbank First Nation has jurisdiction in relation to:
- (a) the regulation of the practice of traditional Okanagan medicine on Westbank Lands; and
 - (b) the regulation of practitioners of traditional Okanagan medicine on Westbank Lands.

Related Provisions: 10

Part XVIII - Enforcement of Westbank Law

Sheet #1

Enforcement Officials (Permissive)

Paragraph(s): 195

Parties: Westbank First Nation
Canada

Obligations Addressed: Westbank First Nation may appoint and assign duties to officials for the enforcement of Westbank Law on Westbank Land.

Activities	Responsibility	Timing
1. Should Westbank First Nation pass a law establishing the procedures for appointment of officials to enforce of Westbank First Nation Laws pursuant to the Agreement, Westbank First Nation will pass the law in accordance with procedure set out in the constitution.	Westbank First Nation	Prior to Effective Date
2. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	60 days before coming into force

Planning Assumptions

- Enforcement provisions will be included in specific Westbank Laws.
- Westbank First Nation may pass law which covers enforcement procedures applicable to all enforcement officials.
- Westbank First Nation will liaise with Westside Fire Protection, Dog Control, First Nations Emergency Services Society and others as required to develop protocols as part of the transition to Self-Government.

Legislative/Regulatory Amendments

Final Agreement Provisions:

195. Westbank First Nation has jurisdiction to:
- (a) appoint and assign duties to Westbank First Nation government officials for the enforcement of Westbank Law on Westbank Lands; and
 - (b) appoint officials as Commissioners for taking of Oaths in relation to matters under the jurisdiction, as referred to in this Agreement, of Westbank First Nation.

Related Provisions: 198, 199

Part XVIII - Enforcement of Westbank Law

Sheet #2

Royal Canadian Mounted Police (RCMP) Services

Paragraph(s): 196

Parties: Westbank First Nation
Canada, Solicitor General (RCMP)

Obligations Addressed: Subject to any assignment of duties to Westbank enforcement officials, the RCMP will continue to provide enforcement services in accordance with the applicable existing Memorandum of Agreement.

Activities	Responsibility	Timing
1. RCMP will continue to provide policing services on Westbank First Nation Lands according to existing Memorandum of Agreement.	RCMP	On-going
2. Westbank First Nation will liaise with the RCMP regarding protocols for the effective and efficient delivery of policing services in the province.	Westbank First Nation, RCMP	On-going

Planning Assumptions

- Westbank First Nation intends to continue to use the services of the RCMP. Such services continue in accordance with the Memorandum of Agreement between Canada and BC regarding the policing of Indian Reserves.
- Westbank First Nation will liaise with the RCMP prior to the Effective Date to develop any required protocols as part of the transition to Self-Government.

Legislative/Regulatory Amendments

Final Agreement Provisions:

196. (a) Subject to any assignment of duties by Westbank First Nation pursuant to subsection 195(a):
- (i) the Royal Canadian Mounted Police shall render such services as are necessary for enforcement of offences established by Westbank Law when such services are appropriate to the effective and efficient delivery of policing services in the province; and
 - (ii) such services shall be rendered in accordance with either:
 - (A) the Memorandum of Agreement dated April 1, 1992 between the government of Canada and the government of British Columbia (Provincial Policing Services Agreement) or its successors; or
 - (B) the Memorandum of Agreement Providing a Framework for Community Tripartite Agreements for the Royal Canadian Mounted Police - First Nations Community Police Service dated April 1, 1993 or its successors;whichever is applicable.

- (b) Nothing in this Agreement alters the arrangement for the enforcement of federal or provincial law on Westbank

Lands by duly empowered federal or provincial officers as set out in the applicable Memorandum referred to in subsection 196(a)(ii).

Related Provisions:

Part XVIII - Enforcement of Westbank Law

Sheet #3

Enforcement Procedures (Permissive)

Paragraph(s): 198, 199

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may establish comprehensive enforcement procedures comparable to that set out in federal or provincial legislation for similar subject matters.

Activities	Responsibility	Timing
1. Westbank First Nation may pass a law establishing comprehensive enforcement procedures comparable to that set out in federal or provincial legislation on similar subject matters.	Westbank First Nation	As desired after the Effective Date
2. Westbank First Nation may designate Westbank Law in respect of which enforcement officials will have powers to issue a notice of violation pursuant to the Agreement.	Westbank First Nation	As desired after the Effective Date
3. When Westbank First Nation passes law as contemplated above, Westbank First Nation will pass the law in accordance with the procedure set out in the Constitution.	Westbank First Nation	As desired after the Effective Date
4. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	60 days before coming into force.

Planning Assumptions

- Enforcement provisions will be included in specific Westbank Laws.
- Westbank First Nation may pass law which covers enforcement procedures applicable to all enforcement officials.

Legislative/Regulatory Amendments

Final Agreement Provisions:

198. (a) Westbank First Nation has jurisdiction to establish under Westbank Law comprehensive enforcement procedures comparable to, but not greater than, those set out in similar federal or provincial legislation on similar subject matters, including inspections, searches, seizures and compulsory sample testing and

- production of information.
- (b) Council may, by law, adopt the laws of the Province relating to proceedings in respect of offenses that are created by a law of the Province, with such modifications as may be required.
199. (a) Westbank First Nation has jurisdiction to designate Westbank Law in respect of which enforcement officials have powers to issue a notice of violation as set out in subsection 199(b), and to fix the amount of fines with respect to that Westbank Law.
- (b) An enforcement official appointed by Westbank First Nation who believes on reasonable grounds that an offence has been committed under a Westbank Law designated under subsection 199(a), may issue to the accused a notice of violation requiring that he or she pay at the offices of Westbank First Nation an amount set out in the notice of violation.
- (c) A notice of violation issued under subsection 199(b) shall include:
- (i) the charge against the accused;
 - (ii) the period within which and the manner in which payment may be made;
 - (iii) the address of the offices of Westbank First Nation to which payment may be made; and
 - (iv) an explanation of the consequences of payment and of not making payment, including the issuance of a summons or other process.
- (d) On payment of a fine within the period and in the manner set out in the notice of violation, no further action may be taken against the accused in respect of the offence.

Related Provisions: 195, 196, 197

Part XVIII - Enforcement of Westbank Law

Sheet #4

Prosecutions

Paragraph(s): 200 - 203

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation will establish a procedure for the prosecution of offences under Westbank Law pursuant to the Agreement.

Activities	Responsibility	Timing
1. Westbank First Nation will convene meetings with the federal and provincial crown to review procedures and process for prosecution of offences.	Westbank First Nation	Prior to the Effective Date
2. Following the review, Westbank First Nation will meet with the judiciary (provincial and/or BC Supreme Court) to discuss options for prosecutions.	Westbank First Nation	Prior to the Effective Date
3. Westbank First Nation will adopt any laws determined necessary following the above review and discussions to implement procedures and process for prosecuting Westbank First Nation law.	Westbank First Nation	As required after the Effective Date
4. Westbank will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	As required after the Effective Date
5. Until such time as any new laws/procedures are developed, Westbank First Nation will continue to prosecute violations of Westbank law following the current practice.	Westbank First Nation	On-going

Planning Assumptions

Legislative/Regulatory Amendments

Final Agreement Provisions:

200. For the purpose of prosecuting offences, Westbank First Nation shall follow one or more of these options:
- (a) retain its own prosecutor;
 - (b) enter into an agreement with Canada to arrange for a federal agent to prosecute these offences; and
 - (c) enter into an agreement with Canada and the province to arrange for a provincial prosecutor.
201. (a) Prosecutions involving Westbank Law shall be heard before the Provincial Court of British Columbia.
- (b) The summary conviction procedures of Part XXVII of the *Criminal Code* shall apply to prosecution of offences of Westbank Law.

202. Subject to any agreement with the province or a competent authority of the province containing provisions to the contrary, every fine, penalty or forfeiture imposed as a result of contravention of Westbank Law belongs to Westbank First Nation.
203. Except as otherwise provided in this Agreement, in the event of a conflict between Westbank Law in relation to the jurisdictions referred to in this Part and federal law, Westbank Law shall prevail to the extent of the conflict.

Related Provisions:

Part XIX - Licencing, Regulation and Operation of Businesses

Sheet #1

Licencing, Regulation and Operation of Businesses (Permissive)

Paragraph(s): 204 - 206

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may pass law, pursuant to this Part of the Agreement, with regard to the licencing and regulation of businesses on Westbank Land. Until the coming into force of Westbank Law in this respect, relevant provisions of the *Indian Act* will continue to apply.

Activities	Responsibility	Timing
1. Westbank First Nation shall review by-laws on licencing, regulation and operation of businesses, in accordance with the procedure for reviewing by-laws set out in Activity Sheet - Application of Existing Westbank First Nation by-laws.	Westbank First Nation	Prior to ratification
2. Should Westbank First Nation pass a law on licencing, regulation and operation of businesses pursuant to the Agreement, the Westbank First Nation will pass the law in accordance with the procedure set out in the constitution.	Westbank First Nation	As desired
3. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws	Westbank First Nation	60 days before coming into force

Planning Assumptions

- The existing Westbank First Nation by-law will be repealed and replaced.

Legislative/Regulatory Amendments

Final Agreement Provisions:

204. Subject to section 205, Westbank First Nation has jurisdiction in relation to:
- licensing of businesses;
 - regulation of the operation of businesses; and
 - prohibition of the operation of businesses
- on Westbank Lands.
205. For greater certainty:

- (a) the jurisdiction referred to in section 204 does not include jurisdiction in relation to banking, bankruptcy and insolvency, interprovincial and international trade and incorporation; and
 - (b) the jurisdiction referred to in section 204 includes the raising of revenues by non-tax means.
206. Until such time as the coming into force of the first Westbank Law enacted pursuant to the jurisdiction described in this Part, paragraph 73(1)(e), and any regulations made thereunder, of the *Indian Act* shall continue to apply.

Related Provisions:

Part XX - Traffic and Transportation

Sheet #1

Traffic and Transportation (Permissive)

Paragraph(s): 208, 210

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may make law in accordance with this Part of the Agreement. Until such time as Westbank First Nation exercises its jurisdiction in this regard, relevant provisions of the *Indian Act* shall apply.

Activities	Responsibility	Timing
1. Westbank First Nation will review existing Westbank First Nation by-laws on traffic and transportation in accordance with the procedure for reviewing by-laws set out in Activity Sheet - Application of existing Westbank First Nation by-laws.	Westbank First Nation	Prior to Effective Date
2. Should Westbank First Nation pass a law on Traffic and Transportation pursuant to the Agreement, the Westbank First Nation will pass the law in accordance with the procedure set out in the Constitution.	Westbank First Nation	As desired after Effective Date
3. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	

Planning Assumptions

- Westbank First Nation will review existing regulations, safety standards and technical codes, both federal and provincial, in order to assure consistency in their laws.

Legislative/Regulatory Amendments

Final Agreement Provisions:

208. (a) Westbank First Nation has jurisdiction in relation to the regulation and control of ground traffic and transportation, and the design, construction, management and maintenance of the ground transportation infrastructure on Westbank Lands.
- (b) For greater certainty, the exercise of the jurisdiction referred to in subsection 208(a) shall be designed to be at least equivalent in effect to federal and provincial regulations, safety standards and technical codes for the same subject matter.

210. Until such time as the coming into force of the first Westbank Law enacted pursuant to the jurisdiction described in this Part, paragraph 73(1)c) and any regulations made thereunder, of the *Indian Act* shall continue to apply.

Related Provisions:

Part XXI - Public Works, Community Infrastructure and Local Services

Sheet #1

Public Works, Community Infrastructure and Local Services (Permissive)

Paragraph(s): 212 - 216

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may pass law in accordance with this Part of the Agreement. Until such time as Westbank First Nation exercises its jurisdiction in this regard, relevant provisions of the *Indian Act* shall apply.

Activities	Responsibility	Timing
1. Westbank First Nation to review existing by-laws in accordance with the procedure for reviewing by-laws set out in Activity Sheet - Application of existing Westbank First Nation by-laws, and pursuant to the Agreement.	Westbank First Nation	Prior to Effective Date
2. Should Westbank First Nation pass additional laws on Public Works, Community Infrastructure and Local Services pursuant to the Agreement, Westbank First Nation will pass the law in accordance with the procedure set out in the Constitution.	Westbank First Nation	As desired after Effective Date
3. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	

Planning Assumptions

- Westbank First Nation makes a distinction between land law creating or transferring interests in land and those laws regulating land use and development. Law addressing municipal-like planning and development functions will be passed by the Council. The Land rules in the Constitution will address the creation or transfer of interests.
- This is a very large area of by-law review for Westbank First Nation and encompasses many municipal-like services.
- Westbank First Nation intends to draw down this jurisdiction on the Effective Date and undertake a comprehensive redrafting of its municipal-like laws.
- The Westbank First Nation Advisory Council will have a significant role in the development of revised Westbank First Nation local government laws.
- Westbank First Nation will assure consistency between federal health and safety standards and those Westbank laws passed under this jurisdiction.

Legislative/Regulatory Amendments

Final Agreement Provisions:

212. Westbank First Nation has jurisdiction in relation to Westbank public works, community infrastructure and local services on Westbank Lands including works and services in relation to:
- (a) the collection, conveyance and treatment and disposal of sewage;
 - (b) the supply, treatment, conveyance, storage and distribution of water;
 - (c) the collection, removal and disposal of waste and noxious, offensive or unwholesome substances;
 - (d) the regulation, storage and management of solid waste and recyclable material, including the regulation of facilities and commercial vehicles used in relation to these matters;
 - (e) community parks and buildings;
 - (f) services for pleasure, recreation and other community use, including art galleries, museums, historic sites, arenas, theatres, sports complexes and other public buildings or facilities for exhibition;
 - (g) fire prevention and suppression and the provision of assistance in response to other classes of circumstances specified by Westbank Law that may cause harm to persons or property;
 - (h) street lighting systems;
 - (i) transit, including transit for persons with special needs;
 - (j) the inspection, for health and safety purposes, of private residences and any other buildings or structures on Westbank Lands;
 - (k) animal control;
 - (l) control of pollution, nuisances, pests, noxious weeds, noise and unsightly premises;
 - (m) regulation of fire alarm systems and other security alarm systems; and
 - (n) programs in preparation for emergencies.
213. For greater certainty, the jurisdiction referred to in section 212 does not include jurisdiction in relation to postal services and aeronautics.
214. Westbank First Nation has jurisdiction in relation to the levying and collection of development cost charges, user fees and development permit fees to provide for public works, community infrastructure and local services on Westbank Lands.
215. Until such time as the coming into force of the first Westbank Law enacted pursuant to the jurisdiction described in this Part, paragraph 73(1)(i) and (l), and any regulations made thereunder, of the *Indian Act* shall continue to apply.
216. Except as otherwise provided in this Agreement, Westbank Law with respect to public works, community infrastructure and local services shall prevail over federal law to the extent of any conflict, so long as Westbank First Nation health and safety standards and technical codes regarding public works, community infrastructure and local services are at least equivalent to federal health and safety standards and technical codes.

Part XXII - Public Order, Peace and Safety

Sheet #1

Emergency Preparedness and Emergency Response (Permissive)

Paragraph(s): 218

Parties: Westbank First Nation
Canada

Obligations Addressed: Westbank First Nation and Canada may attempt to negotiate an agreement with the province regarding emergency response on Westbank Lands. Until such time the existing procedures shall continue to apply.

Activities	Responsibility	Timing
1. Westbank First Nation to review existing by-laws on this activity pursuant to the Final Agreement and in accordance with the procedure for reviewing by-laws set out in Activity Sheet - Application of existing Westbank First Nation by-laws.	Westbank First Nation	Prior to Effective Date
2. Westbank First Nation and Canada may initiate discussion of a subsequent agreement between Canada, Westbank and British Columbia by notifying the other Party of the desire to negotiate such an agreement.	Westbank First Nation, Canada	As desired after Effective Date
3. Westbank First Nation and Canada shall approach British Columbia to seek their involvement in the negotiation of an agreement on emergency preparedness and emergency response.	Westbank First Nation, Canada	As soon as practical

Planning Assumptions

- Westbank Lands will continue to be subject to the current agreement between Canada and British Columbia regarding emergency response.
- Westbank First Nation intends to negotiate a protocol with First Nations Emergency Services Society.

Legislative/Regulatory Amendments

Final Agreement Provisions:

218. Current procedures and responsibilities in relation to emergency preparedness and emergency response shall continue to apply until a subsequent agreement is completed with Westbank First Nation, Canada and the province.

Related Provisions: 154

Part XXIII - Prohibition of Intoxicants

Sheet #1

Prohibition of Intoxicants (Permissive)

Paragraph(s): 220

Parties: Westbank First Nation

Obligations Addressed: Westbank First Nation may pass law in accordance with this Part of the Agreement.

Activities	Responsibility	Timing
1. Should Westbank First Nation pass laws to prohibit the sale, use, possession, manufacture or supply of intoxicants on Westbank Land pursuant to the Agreement, Westbank First Nation will pass the laws in accordance with the procedure set out in the Constitution.	Westbank First Nation	As required after Effective Date
2. Westbank First Nation will notify Canada in accordance with Activity Sheet - Notification to Canada of Westbank Laws.	Westbank First Nation	60 days before coming into force

Planning Assumptions

- Westbank First Nation has no immediate intention to pass a law in this area but intends to review the need for such law making from time to time.

Legislative/Regulatory Amendments

Final Agreement Provisions:

220. (a) Westbank First Nation has jurisdiction to prohibit the:

- sale,
 - barter,
 - supply,
 - manufacture, or
 - possession
- of intoxicants on Westbank Lands.

- (b) Westbank First Nation has jurisdiction for exemptions in relation to possession of intoxicants on Westbank Lands.

Related Provisions:

Part XXIV - Future Negotiations

Sheet #1

Future Negotiations

Paragraph(s): 222

Parties: Westbank First Nation
Canada

Obligations Addressed: Westbank First Nation may pursue further negotiation of jurisdictional arrangements involving Westbank First Nation, Canada and British Columbia regarding other matters as outlined in this Part of the Agreement.

Activities	Responsibility	Timing
1. Should Westbank First Nation wish to enter into negotiation of jurisdictional arrangements on other subject matter set out in this Part of the Agreement which is under the jurisdiction of Canada, Westbank First Nation will provide written notice to Canada of its interest in entering into negotiations.	Westbank First Nation	As desired after Effective Date
2. If agreed, Westbank First Nation and Canada shall convene the first meeting of the negotiations	Westbank First Nation, Canada	As agreed by the Parties
3. If Westbank First Nation and Canada reach agreement, they shall implement the agreement in accordance with the terms and conditions of the agreement	Westbank First Nation, Canada	As agreed
4. Should Westbank First Nation wish to enter into negotiation of jurisdictional arrangements on subject matter set out in this Part of the Agreement which is under the jurisdiction of the province, Westbank First Nation will provide written notice to the province and to Canada of its interest in entering into such negotiations.	Westbank First Nation	As desired after Effective Date.
5. If the province agrees to enter into negotiations, Westbank First Nation, Canada and BC will convene the first meeting of the negotiations.	Westbank First Nation, Canada, BC	As agreed after the Effective Date
6. If Westbank First Nation, Canada and the province reach agreement, they shall implement the agreement in accordance with its terms and conditions.	Westbank First Nation, Canada, BC	As agreed

Planning Assumptions

- Westbank First Nation will invite Canada to participate in the negotiation of jurisdictional arrangements with the province.
- The Self-Government Agreement does not deal with subject matters of provincial jurisdiction but future tripartite negotiations are contemplated which may involve such subject matters.
- The list in the Self-Government Agreement is not an exhaustive list and does not limit Westbank First Nation future negotiations.

Legislative/Regulatory Amendments

Final Agreement Provisions:

222. It is the intention of Westbank First Nation to seek further negotiations with the province and Canada to set out jurisdictional arrangements with respect to the following subject areas:
- (a) health in addition to what is provided for traditional aboriginal medicine in this Agreement;
 - (b) regulation of intoxicants in addition to what is provided for in this Agreement;
 - (c) labour relations on Westbank Lands;
 - (d) social services, family and child welfare law as it relates to Members;
 - (e) education of Members off Westbank Lands;
 - (f) gaming;
 - (g) minerals;
 - (h) water in addition to what is provided for in this Agreement; and
 - (i) the establishment of a Westbank First Nation court.

Related Provisions:

Part XXV - Financial Arrangements

Sheet #1

Initial Financial Transfer Agreement

Paragraph(s): 225(a), 229 - 233, 234(a), 238, 239, 243 - 249

Parties: Westbank First Nation
Canada, DIAND and Other Departments

Obligations Addressed: Westbank First Nation and Canada will negotiate an initial Financial Transfer Agreement pursuant to the Agreement.

Activities	Responsibility	Timing
1. The Parties will complete the negotiation of the initial Financial Transfer Agreement pursuant to Paragraphs 229 - 233 and 234(a) of Part XXV of the Agreement.	Westbank First Nation, Canada	Prior to the Effective Date
2. The Parties will implement the Financial Transfer Agreement in accordance with its terms and conditions.	Westbank First Nation, Canada	On-going after the Effective Date.

Planning Assumptions

- The Financial Transfer Agreement draws a distinction between funding provided for programs and services where Westbank First Nation has jurisdiction under the Agreement and funding for programs and services which Westbank First Nation provides with no corresponding jurisdiction under the Agreement.

Legislative/Regulatory Amendments

Final Agreement Provisions:

- 225 (a) The Parties shall, prior to the ratification of this Agreement, and thereafter at five year intervals, or at such other intervals as the Parties may agree, negotiate a Financial Transfer Agreement by which funding shall be provided to Westbank First Nation in order to enable the provision of agreed-upon public services.
229. In negotiating Financial Transfer Agreements, the Parties shall take into account the following:
- (a) one time implementation costs, in the first Financial Transfer Agreement;
 - (b) costs to operate Westbank First Nation government;
 - (c) the desirability of reasonably stable, predictable and flexible funding arrangements;
 - (d) levels of support provided by governments to Westbank First Nation;
 - (e) the jurisdictions of, and authorities, obligations, programs and services assumed, or to be assumed, by Westbank First Nation during the duration of the particular funding agreement;
 - (f) Westbank First Nation's own source revenue capacity;
 - (g) the efficiency and cost-effectiveness of the proposed arrangements, including issues related to the size, location and accessibility of Westbank First Nation; and
 - (h) levels of support provided to other First Nations by government.
230. The exercise of Westbank First Nation's legislative authority pursuant to this Agreement shall not create or

imply any funding or financial obligation for Canada.

231. The Financial Transfer Agreements entered into pursuant to this Agreement may consolidate federal program funding for the Westbank First Nation.
232. For greater certainty, funding provided in a Financial Transfer Agreement entered into pursuant to this Agreement is money given to Westbank First Nation pursuant to an agreement between Westbank First Nation and Canada.
233. Any Financial Transfer Agreements entered into pursuant to this Agreement shall be subject to the terms and conditions negotiated between Canada and Westbank First Nation.
234. (a) In negotiating the initial Financial Transfer Agreement, Westbank First Nation's own source revenue capacity shall not be considered.
238. (a) Westbank First Nation's own source revenue capacity shall be taken into account in the determination of funding set out in the financial transfer agreement for programs and services which Westbank First Nation provides pursuant to jurisdictions set out in the Agreement.
(b) Programs and services which Westbank First Nation delivers on behalf of Canada, in areas where Westbank First Nation has no jurisdiction in this Agreement, shall be delivered in accordance with the terms and conditions of the agreements negotiated for the delivery of those programs and services.
239. During the term of the first financial transfer agreement, the Parties shall determine and mutually agree upon a system of data collection and information exchange for the measurement of own source revenue capacity.
243. Financial Transfer Agreements shall set out the manner in which funding levels may be adjusted during the period of the Financial Transfer Agreement.
244. The Financial Transfer Agreements shall include provisions which enable federal Ministers to fulfill accountability requirements to the Parliament of Canada with respect to federal transfers under the Financial Transfer Agreements.

Related Provisions:

Part XXV - Financial Arrangements

Sheet #2

Second and Subsequent Financial Transfer Agreements

Paragraph(s): 225, 229 - 233, 234(b), 238, 239, 243 - 249

Parties: Westbank First Nation
Canada, DIAND and Other Departments

Obligations Addressed: Westbank First Nation and Canada will negotiate subsequent Financial Transfer Agreements pursuant to the Agreement.

Activities	Responsibility	Timing
1. The Parties will begin negotiation of the second and subsequent Financial Transfer Arrangements (FTA) prior to the end of the fourth fiscal year of the existing FTA.	Westbank First Nation, Canada	As agreed by the Parties
2. In negotiation of the second and subsequent FTAs, the Parties will consider factors as described in sections 229, 230 and 238.	Westbank First Nation, Canada	Prior to the expiry of the existing FTA
3. The Parties will agree upon a system of data collection and information exchange to measure Westbank First Nation own source revenue capacity.	Westbank First Nation, Canada	During the term of the initial FTA
4. If the Parties do not reach agreement on a subsequent FTA, the expiring FTA will continue in effect, thereby extending the funding period under that FTA for not more than one additional year.	Westbank First Nation, Canada	As required
5. If the Parties agree, they may enter into a new Funding Agreement based on new mechanism that may be developed and which considers the elements set out in Paragraph 229, 230 and 238.	Westbank First Nation, Canada	As desired

Planning Assumptions

- The Financial Transfer Agreement (FTA) makes a distinction between funding provided in Block A pursuant to the Self-Government Agreement and funding provided in Block B for Social Assistance and Targeted Programs. In negotiating a second or subsequent FTA, failure to reach agreement on one of the Blocks within the prescribed time will not stop the flow of funding for the other Block if agreement has been reached for that Block.

Legislative/Regulatory Amendments

Final Agreement Provisions:

- 225 (a) The Parties shall, prior to the ratification of this Agreement, and thereafter at five year intervals, or at such other intervals as the Parties may agree, negotiate a Financial Transfer Agreement by which funding shall be provided to Westbank First Nation in order to enable the provision of agreed-upon public services.
- (b) Financial Transfer Agreements shall reflect the principle of reasonably comparable levels of public services to Westbank First Nation in comparison to other communities in southern British Columbia taking into account Westbank First Nation own source revenue capacity.
229. In negotiating Financial Transfer Agreements, the Parties shall take into account the following:
- (a) one time implementation costs, in the first Financial Transfer Agreement;
 - (b) costs to operate Westbank First Nation government;
 - (c) the desirability of reasonably stable, predictable and flexible funding arrangements;
 - (d) levels of support provided by governments to Westbank First Nation;
 - (e) the jurisdictions of, and authorities, obligations, programs and services assumed, or to be assumed, by Westbank First Nation during the duration of the particular funding agreement;
 - (f) Westbank First Nation's own source revenue capacity;
 - (g) the efficiency and cost-effectiveness of the proposed arrangements, including issues related to the size, location and accessibility of Westbank First Nation; and
 - (h) levels of support provided to other First Nations by government.
230. The exercise of Westbank First Nation's legislative authority pursuant to this Agreement shall not create or imply any funding or financial obligation for Canada.
231. The Financial Transfer Agreements entered into pursuant to this Agreement may consolidate federal program funding for the Westbank First Nation.
232. For greater certainty, funding provided in a Financial Transfer Agreement entered into pursuant to this Agreement is money given to Westbank First Nation pursuant to an agreement between Westbank First Nation and Canada.
233. Any Financial Transfer Agreements entered into pursuant to this Agreement shall be subject to the terms and conditions negotiated between Canada and Westbank First Nation.
234. (b) In negotiating subsequent Financial Transfer Agreements, and not more than seven years after the conclusion of the first Financial Transfer Agreement, the consideration of Westbank First Nation's own source revenue capacity shall be taken into account in a manner that does not create disincentives for Westbank First Nation to raise revenues and it may be phased in on an incremental and staged basis over an agreed upon period of time.
238. (a) Westbank First Nation's own source revenue capacity shall be taken into account in the determination of funding set out in the Financial Transfer Agreement for programs and services which Westbank First Nation provides pursuant to jurisdictions set out in the Agreement.
239. During the term of the first Financial Transfer Agreement, the Parties shall determine and mutually agree upon a system of data collection and information exchange for the measurement of own source revenue capacity.
243. Financial Transfer Agreements shall set out the manner in which funding levels may be adjusted during the

period of the Financial Transfer Agreement.

244. The Financial Transfer Agreements shall include provisions which enable federal Ministers to fulfill accountability requirements to the Parliament of Canada with respect to federal transfers under the Financial Transfer Agreements.
245. Every five years, or at such other period as the Parties may agree, the Parties shall negotiate a renewal of the Financial Transfer Agreements by which funding may be provided to the Westbank First Nation.
246. Such negotiations may begin at any time prior to the end of the fourth fiscal year of the then current Financial Transfer Agreement, but in any event shall begin no later than April 1st of the final fiscal year covered by the Financial Transfer Agreement.
247. In the event that a renewal of the Financial Transfer Agreement is not executed by the day of the expiry of the period covered by the Financial Transfer Agreement which is being renewed, Canada shall provide to Westbank First Nation a financial transfer in the amount and subject to the terms and conditions set out in the Financial Transfer Agreement then in existence, thereby extending the funding period under the Financial Transfer Agreement for not more than one additional year.
248. The renewed agreement shall come into force on the first day after the expiration of the previous Financial Transfer Agreement and shall expire on March 31st five years later or such other date as the Parties may agree.
249. Despite sections 245 to 248, and by mutual consent, Canada and Westbank First Nation may enter into new financial agreements based on new mechanisms that may be developed and which shall consider the elements set out in section 229.

Related Provisions:

Part XXV - Financial Arrangements

Sheet #3

Amendment Arising From Court Decisions (Contingent)

Paragraph(s): 228

Parties: Westbank First Nation
Canada

Obligations Addressed: The Parties will jointly examine the impact of court or administrative tribunal decisions which significantly affect the number of eligible recipients of programs and services funded under the Financial Transfer Agreement (FTA).

Activities	Responsibility	Timing
1. Either Party may notify the other in writing of its interest in jointly examining the impacts of a particular court decision with regard to the number of eligible recipients of programs/services funded under the FTA.	Westbank First Nation, Canada	As required after the Effective Date
2. The Parties will convene a first meeting to examine and identify any significant impacts on numbers of eligible recipients.	Westbank First Nation, Canada	As agreed by the Parties
3. If the Parties agree that there are significant impacts on numbers of eligible recipients, the Parties may negotiate what changes to the FTA , if any, are required.	Westbank First Nation, Canada	As agreed by the Parties
4. If agreed, the Parties will amend the FTA and implement the amended FTA in accordance with its amended terms and conditions.	Westbank First Nation, Canada	As agreed by the Parties

Planning Assumptions

- This provision is intended to address unforeseen circumstances that may arise as a result of court decisions.

Legislative/Regulatory Amendments

Final Agreement Provisions:

228. During the term of a Financial Transfer Agreement, Westbank First Nation and Canada agree to examine jointly the need to amend the Financial Transfer Agreement in light of decisions of courts or administrative tribunals which significantly impact upon the number of eligible recipients of programs and services funded under the terms of the Financial Transfer Agreement.

Related Provisions:

Part XXVI - Principles of Implementation

Sheet #1

Implementation Plan

Paragraph(s): 250- 252

Parties: Westbank First Nation
Canada, DIAND HQ and Region

Obligations Addressed: Westbank First Nation and Canada will jointly prepare an implementation plan to guide the implementation of the Agreement.

Activities	Responsibility	Timing
1. The Parties are obligated to negotiate an implementation plan in accordance with sections 251 - 253 which includes Activity Sheets, a communication strategy and the process for amendment, renewal or extension of the implementation plan.	Westbank First Nation, Canada	Prior to Westbank First Nation ratification
2. The Parties will sign the implementation plan.	Westbank First Nation, Canada	Prior to Effective Date
3. A Party may proposed an amendment to the implementation plan.	Westbank First Nation, Canada	As desired
4. The Parties shall review the proposed amendment through the intergovernmental implementation committee and, if in agreement, shall amend the implementation plan.	Westbank First Nation, Canada	As desired

Planning Assumptions

- Westbank First Nation and Canada have negotiated and prepared this draft implementation plan. The final implementation plan will be completed prior to Ratification Date.

Legislative/Regulatory Amendments

Final Agreement Provisions:

- 250 Prior to ratification of this Agreement, the Parties shall prepare an implementation plan.
251. The implementation plan shall take effect on the Effective Date of the Agreement and have a term of 10 years, or such other term as the Parties may agree.
252. The implementation plan shall:
- (a) include a description of the implementation activities arising from the obligations set out in this

Agreement, the activities anticipated to fulfill those obligations, and the responsible Parties and the anticipated time lines for completion.

- (b) include a communications strategy in respect of the implementation and content of the Agreement; and
- (c) specify how the implementation plan will be amended, renewed or extended; and
- (d) any other matters agreed to by the Parties.

Related Provisions: 286

Part XXVI - Principles of Implementation

Sheet #2

Establishment of Intergovernmental Implementation Committee

Paragraph(s): 255- 257

Parties: Westbank First Nation
Canada, DIAND Region

Obligations Addressed: Westbank First Nation and Canada will establish an intergovernmental implementation committee to oversee, provide direction and monitor the implementation of the Agreement.

Activities	Responsibility	Timing
1. The Parties will establish an intergovernmental implementation committee for a term of ten years or other such time as the Parties agree.	Westbank First Nation, Canada	On the Effective Date or as soon as practicable thereafter
2. The Minister of Indian Affairs and Northern Development will designate a representative to the intergovernmental implementation committee and notify Westbank First Nation in writing.	Canada	Prior to the Effective Date
3. Westbank First Nation will designate a representative to the intergovernmental implementation committee and notify Canada in writing.	Westbank First Nation	Prior to the Effective Date
4. The Parties will established guidelines for the intergovernmental implementation committee.	Westbank First Nation, Canada	Within one month of the Effective Date

Planning Assumptions

The intergovernmental implementation committee is established to:

1. provide a mechanism for the Parties to discuss the implementation of the Westbank First Nation Final Agreement;
2. facilitate communication and the sharing of information between the Parties;
3. attempt to resolve implementation issues that may arise from time to time;
4. recommend amendments to "Appendix A";
5. develop and provide annual status report and recommendations on the implementation of the WFN Final Agreement to the Parties;
6. the intergovernmental implementation committee will establish its procedures and meeting requirements.

Legislative/Regulatory Amendments

Final Agreement Provisions:

255. On the Effective Date, or as soon as practicable thereafter, the Parties agree to establish an intergovernmental implementation committee to provide a forum for the Parties to discuss the implementation of the Agreement. The intergovernmental implementation committee shall be for the same term as the implementation plan.
256. The intergovernmental implementation committee shall consist of one individual designated by Canada and one individual designated by Westbank First Nation.
257. The intergovernmental implementation committee shall have the following duties and responsibilities:
- (a) oversee and provide direction on implementation of the Agreement and the implementation plan;
 - (b) monitor implementation of the Agreement and the implementation plan;
 - (c) provide an initial forum to resolve disputes related to implementation of the Agreement without in any way limiting access to the dispute resolution processes set out in Part XXX;
 - (d) conduct periodic reviews and make recommendations to the Parties on the renewal of the implementation plan beyond the initial period;
 - (e) provide an annual report on implementation of the Agreement to the Parties; and
 - (f) establish its own internal procedures.

Related Provisions:

Part XXVIII - Tax Agreements

Sheet #1

Negotiation of Tax Agreements (Permissive)

Paragraph(s): 260

Parties: Westbank First Nation,
Canada

Obligations Addressed:

Activities	Responsibility	Timing
1. Westbank First Nation or Canada may notify the other party in writing, of its interest in entering into negotiation on taxation matters pursuant to the Agreement.	Westbank First Nation, Canada	As desired after Effective Date
2. If agreed, the Parties will convene the first meeting of negotiations and attempt to reach agreement.	Westbank First Nation, Canada	As agreed by the Parties
3. If agreement is reached, the Parties will implement the agreement in accordance with its terms and conditions.	Westbank First Nation, Canada	As agreed

Planning Assumptions

- Pursuant to Part IV of the *Budget Implementation Act 1997*, Westbank First Nation has enacted a Westbank First Nation tax by-law levying a tax equal to the Goods and Services Tax (GST) on alcohol, tobacco and fuel and have entered into a taxation collection agreement with Canada.
- This arrangement will continue under its current legislative authority after the Effective Date.

Legislative/Regulatory Amendments

Final Agreement Provisions:

260. From time to time, Canada and Westbank First Nation may negotiate and attempt to reach agreements on:
- (a) the extent, if any, that Westbank First Nation shall exercise direct taxation over persons on Westbank Lands;
 - (b) the manner in which Westbank First Nation's taxation shall be coordinated with existing federal taxation systems; and
 - (c) such other matters as may be agreed upon by Canada and Westbank First Nation relating to taxation matters.

Related Provisions:

Part XXIX - Transfer of Capital and Revenue Monies

Sheet #1

Transfer of Capital and Revenue

Paragraph(s): 261 - 263, 266

Parties: Westbank First Nation
Canada, HQ LTS

Obligations Addressed: Canada will transfer all moneys held pursuant to the *Indian Act* for the use and benefit of Westbank First Nation to Council following ratification of the Agreement and the enactment of a law under Part XII..

Activities	Responsibility	Timing
1. Canada will transfer Westbank First Nation Capital and Revenue accounts to Westbank First Nation.	Canada	Following the enactment, under this Agreement, of Westbank Law with regard to Part XII
2. Canada shall provide to Westbank First Nation a history report detailing all receipts and expenditures from both the capital and revenue accounts of the Westbank First Nation for the ten year period prior to the date of transfer.	Canada	At the time of transfer of moneys
3. Until such time as Westbank First Nation exercises its jurisdiction for estates, Canada will continue to collect monies payable to or on behalf of deceased Members, mentally incompetent Members and infant Members in accordance with existing procedures.	Canada	on-going

Planning Assumptions

- The transfer of Capital and Revenue moneys will take place after Effective Date and after Westbank First Nation has drawn down jurisdiction over renewable and non-renewable resources unless there is a by-law in place at Effective Date.
- The Indian moneys accounts are not large accounts and have been largely inactive for a number of years.
- Westbank First Nation has been managing these accounts on behalf of the Minister for several years.

Legislative/Regulatory Amendments

Final Agreement Provisions:

261. All moneys held by Canada pursuant to the *Indian Act* for the use and benefit of Westbank First Nation, being commonly referred to as capital and revenue moneys of the Band, shall be transferred by Canada to the Council following the ratification of this Agreement and following the first Westbank Law enacted pursuant to the jurisdiction referred to in Part XII.
262. Upon transfer of the moneys referred to in section 261, Canada shall no longer thereafter be responsible for the collection of moneys payable:
- (a) to or for the benefit of Westbank First Nation; or
 - (b) except as provided in section 263, to or for the benefit of a Member.
263. Until Westbank First Nation exercises the jurisdiction for estates referred to in Part VIII, Canada shall collect any moneys payable to or for the benefit of deceased Members, mentally incompetent Members and infant Members.
266. Upon the transfer of moneys in accordance with section 261, Canada shall provide to Westbank First Nation a history report which details all receipts and expenditures from both the capital and revenue accounts of the Band for the ten year period prior to the date of transfer.

Related Provisions: Part XII

Part XXX - Dispute Resolution

Sheet #1

Dispute Resolution Process

Paragraph(s): 267 - 272

Parties: Westbank First Nation
Canada

Obligations Addressed: If a dispute arises between Westbank First Nation and Canada relating to the Agreement, the Parties will attempt to resolve the dispute without litigation.

Activities	Responsibility	Timing
1. If a dispute between the Parties arises out of or relating to the Agreement, the Parties will negotiate in good faith and attempt to resolve the dispute. The Parties may attempt to resolve the dispute by informal discussion between the Parties.	Westbank First Nation, Canada	As required after Effective Date
2. If the dispute can not be resolved by informal discussion of the persons directly involved within 30 days, either Party may invoke the dispute resolution procedure by designating its representative and giving written notice to the other.	Westbank First Nation, Canada	As desired after Effective Date
3. The designated representatives shall enter into negotiations.	Westbank First Nation, Canada	Within 10 business days of designation
4. If the designated representatives are unable to resolve the dispute, or agree to extend the time for resolving the dispute, the Parties may agree to use a mediator to resolve the dispute.	Westbank First Nation, Canada	30 business days following the first meeting of the representatives or as agreed by the Parties.

5. If the Parties are unable to resolve the dispute within 60 business days of the first meeting with the mediator, they may agree to submit to binding arbitration pursuant to the Self-Government Agreement.	Westbank First Nation, Canada	60 business days following the first meeting with the mediator or as agreed by the Parties.
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Planning Assumptions

- The dispute resolution process is intended for disputes between the Parties arising out of the Self-Government Agreement, not for disputes brought by individuals.

Legislative/Regulatory Amendments

Final Agreement Provisions:

267. In the event of a dispute between the Parties arising out of or relating to this Agreement, the Parties agree to meet, negotiate in good faith and attempt to resolve the dispute amicably without litigation. The Parties agree to use the procedure set out in this Part.
268. (a) If a dispute arises under this Agreement which cannot be resolved by the persons directly involved within 30 days, either Party may invoke this dispute resolution procedure by giving written notice to the other designating a senior official with appropriate authority to be its representative in negotiations relating to the dispute.
- (b) Upon receipt of the notice referred to in subsection 268(a), the other Party shall, within five business days, designate a senior official with similar authority to be its representative.
- (c) Within 10 business days of the designation of both officials, the designated officials shall enter into direct, good faith negotiations concerning the dispute.
- (d) If within 30 business days after the first meeting between the senior officials, the Parties have failed to resolve the dispute or agreed to extend the time for senior officials to resolve the dispute, then the Parties agree to use a mediator, in accordance with this Part, to assist in resolving the dispute.
269. Where a mediator is required to assist in resolving the dispute, the following rules shall apply:
- (a) the Parties shall jointly select a mediator. If the Parties are unable to agree upon the choice of a mediator, then a mediator shall be chosen, upon application by the Parties, by the British Columbia Arbitration and Mediation Institute;
- (b) the Parties agree to participate in good faith in the mediation process and to meet with the mediator as soon as possible; and
- (c) each Party shall bear its own costs of the mediation.
270. If the Parties are unable to resolve the dispute within 60 business days of the first meeting with the mediator, or within such time as the Parties may agree in writing, the Parties may agree to submit the dispute to arbitration, pursuant to this Agreement.

271. Where the Parties agree to submit the dispute to arbitration, the following rules shall apply:

- (a) the dispute shall be resolved by a single arbitrator if the Parties agree on one and, otherwise, by three arbitrators, one to be appointed by each Party and a third to be chosen by the first two named;
- (b) the Parties may agree on the procedure to be followed in the arbitration. If they cannot agree on this procedure within 15 business days of the appointment of an arbitrator or arbitrators, the procedure shall be determined by the arbitrator or arbitrators;
- (c) the arbitrator or arbitrators shall issue a written decision within 30 business days of the completion of the arbitration hearing and shall provide copies of the written decision to each Party;
- (d) unless otherwise agreed or otherwise ordered by the arbitration decision, the costs of the arbitration shall be shared equally by the Parties.

272. (a) The Parties agree that neither shall commence litigation until completion of the mediation process. In the event that the Parties have agreed to arbitration, neither Party may commence litigation until receipt of the arbitration decision.
- (b) Where litigation is to be commenced by a Party, it may only be done upon 20 business days written notice to the other Party.

Related Provisions: 257(c)

Part XXXII - Ratification

Sheet #1

Ratification by Westbank First Nation

Paragraph(s): 281 - 284

Parties: Westbank First Nation
Canada

Obligations Addressed: The Parties will each seek ratification of this Agreement in accordance with the procedures and provisions of the Agreement and Schedule A.

Activities	Responsibility	Timing
1. The Ratification Committee will prepare a budget for the Ratification process for review and approval by Canada.	Ratification Committee	Prior to Westbank First Nation Ratification
2. The Ratification Committee shall establish any rules and procedures, additional to, but consistent with those specified in Schedule A, that are required to conduct the Ratification.	Ratification Committee	Prior to Westbank First Nation Ratification
3. The Ratification Committee shall prepare and publish the Official Voters List in accordance with the Agreement and Schedule A.	Ratification Committee	Prior to Westbank First Nation Ratification
4. Westbank First Nation and Canada will develop and implement an information campaign and communication strategy in accordance with Schedule A, including affording eligible voters the opportunity to review the substance and detail of the Final Agreement.	Ratification Committee	Prior to Westbank First Nation Ratification
5. The Ratification Committee will, in accordance with the Ratification procedure, conduct a referendum on the Final Agreement.	Ratification Committee	On the desired Date
6. The Ratification Committee will tabulate the results of the vote and publish the tabulated results.	Ratification Committee	As specified in Schedule A
7. The Ratification Committee will prepare and submit to the Parties, a report tabulating the results and details of its responsibilities in the ratification process.	Ratification Committee	As specified in Schedule A

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| 8. The Westbank First Nation will have ratified the Westbank Self-Government Agreement when the requirements of 8.1 of Schedule A have been met. | Westbank First Nation |
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Planning Assumptions

Schedule A addresses in detail the procedures of ratification.

Legislative/Regulatory Amendments

Final Agreement Provisions:

- 281. Initialling of this Agreement by the negotiators for Westbank First Nation and Canada signifies that they shall seek ratification.

- 282. Ratification of this Agreement by Westbank First Nation requires at least 50 percent plus one (50% + 1) of all Eligible Voters, as that term is defined in Schedule A to this Agreement, participate in the ratification by casting a vote and that at least fifty percent plus one (50% + 1) of those voting approve the Agreement.

- 283. Ratification of this Agreement by the Parties in accordance with this Part and Schedule A is a condition precedent to the validity of this Agreement and, unless so ratified, this Agreement has no force or effect.

- 284. Westbank First Nation shall seek ratification of this Agreement by the process set out in Schedule A.

Related Provisions: Schedule A

Part XXXII - Ratification

Sheet #2

Ratification by Canada

Paragraph(s): 281, 285

Parties: Westbank First Nation
Canada

Obligations Addressed: The Parties will each seek ratification of this Agreement in accordance with the procedures and provisions of the Agreement.

Activities	Responsibility	Timing
1. Upon ratification by Westbank First Nation, Canada will ratify the Final Agreement according to the existing process for passing federal Laws.	Canada	After Ratification by Westbank First Nation
2. Canada will have ratified the Agreement when the requirements of section 285 have been met.	Canada	As required
3. When ratified by Canada, Canada and Westbank First Nation will agree upon a signing date.	Westbank First Nation, Canada	As agreed
4. Following the proclamation of federal legislation, the Parties will determine an Effective Date and Canada will prepare the required Order-in-Council to bring the legislation into effect.	Westbank First Nation, Canada	As agreed

Planning Assumptions

- Canada will proceed with Ratification as soon as practicable following Westbank First Nation Ratification.

Legislative/Regulatory Amendments

Final Agreement Provisions:

281. Initialing of this Agreement by the negotiators for Westbank First Nation and Canada signifies that they shall seek ratification.
285. Ratification of this Agreement by Canada requires:
- that this Agreement be signed by a Minister of the Crown authorized by the Governor-in-Council; and
 - the enactment of federal legislation giving effect to this Agreement.

Related Provisions: Schedule A

Part XXXIII- General

Sheet #1

Joint Review

Paragraph(s): 286, 287

Parties: Westbank First Nation
Canada

Obligations Addressed: If the Parties agree, they will jointly review the implementation and effectiveness of the Agreement within five years of ratification by Westbank First Nation or at other such time as the Parties agree.

Activities	Responsibility	Timing
1. The Parties develop, and agree upon, a process for review of the Agreement and identify the information and data required to inform a review of the Agreement.	Westbank First Nation, Canada	Within two years of Ratification
2. The Parties will establish the data collection mechanisms needed to inform the review.	Westbank First Nation, Canada	Within two years of Ratification
3. Canada and Westbank will review the Agreement in accordance with their agreed procedure to consider the matters outlined in Paragraph 286.	Westbank First Nation, Canada	Within five years of Ratification or as agreed by the Parties
4. The review process may make recommendations to the Parties as a result of the joint review.	Westbank First Nation, Canada	As soon as is practicable following the review.
5. The Parties will attempt to resolve issues that arise out of this review.	Westbank First Nation, Canada	As required following the review

Planning Assumptions

- The Implementation Committee will monitor the implementation of the Agreement as outlined in the Implementation Plan.
- This is a comprehensive review done at the discretion of the Parties and is in addition to the annual reporting to be done by the Implementation Committee.
- It is assumed that this review process will work closely with the Implementation Committee.
- Westbank First Nation and Canada may agree to change the date at which the review takes place in relation to Effective Date rather than Ratification Date.

Legislative/Regulatory Amendments

Final Agreement Provisions:

286. Unless the Parties otherwise agree, the Parties shall review this Agreement within five years of the ratification by Westbank First Nation to consider the following:
- (a) whether this Agreement has been implemented in accordance with the implementation plan;
 - (b) whether any transfer of programs, responsibilities and resources pursuant to this Agreement has been successfully implemented;
 - (c) the effectiveness of this Agreement to implement the inherent right of self-government compared to other self-government agreements in British Columbia;
 - (d) the effectiveness of this Agreement to incorporate implementation of the Financial Transfer Agreements compared to other self-government agreements in British Columbia;
 - (e) in consultation with the province, progress made in treaty-making and its relationship with this Agreement; and
 - (f) whether this Agreement should be amended to reflect mutually agreed upon conclusions.
287. The Parties agree to address issues arising out of section 286 with a view to resolution.

Related Provisions:

Part XXXIII - General

Sheet #2

Amendment of Federal Legislation

Paragraph(s): 292, 293

Parties: Canada

Obligations Addressed: Canada will present, in legislation, amendments to the *Access to Information Act* and the *Privacy Act* to protect information provided in confidence by Westbank First Nation in a similar manner as if it were provided by a province.

Activities	Responsibility	Timing
1. Canada will ensure that the Bill that will be presented to parliament to implement this Agreement reflects this commitment	Canada	As part of Canada's ratification process.

Planning Assumptions

Legislative/Regulatory Amendments: As above

Final Agreement Provisions:

292. Canada will present, in the Legislation, amendments to the *Access to Information Act* and the *Privacy Act* to protect from disclosure information provided in confidence by the Westbank First Nation as if it were information provided to Canada by another government in Canada.
293. Canada will present, in the Legislation, amendments to the *Privacy Act* to allow Westbank First Nation access to information necessary for Westbank First Nation to exercise its jurisdictions under this Agreement.

Related Provisions:

Part XXXIII - General

Sheet #3

Agreements Regarding Information (Permissive)

Paragraph(s): 294

Parties: Westbank First Nation;
Canada

Obligations Addressed: Westbank First Nation and Canada may enter into agreements regarding collection, protection, retention, use, disclosure and confidentiality of information.

Activities	Responsibility	Timing
1. Should a Party wish to enter into agreements with the other regarding collection and treatment of information pursuant to this section, the initiating Party will provide written notice to the other Party of its interest.	Westbank First Nation; Canada	As desired after Effective Date
2. If agreed, Westbank First Nation and Canada will convene the first meeting to discuss their interests	Westbank First Nation; Canada	As agreed by the Parties
3. If Westbank First Nation and Canada reach agreement, they shall implement the agreement in accordance with the terms and conditions of that agreement.	Westbank First Nation; Canada	As agreed

Planning Assumptions

Legislative/Regulatory Amendments:

Final Agreement Provisions:

294. The Parties may enter into agreements in respect of any one or more of the collection, protection, retention, use, disclosure and confidentiality of personal, general or other information.

Related Provisions: 295

Part XXXIII - General

Sheet #4

Amendment Procedure

Paragraph(s): 299

Parties: Westbank First Nation
Canada

Obligations Addressed: The Parties may amend the Agreement by mutual consent.

Activities	Responsibility	Timing
1. Either Party may notify the other of its interest in negotiating an amendment to the Agreement.	Westbank First Nation, Canada	As desired after Effective Date.
2. If in agreement, the Parties shall convene the first meeting of the negotiations.	Westbank First Nation, Canada	As agreed by the Parties
3. If agreed, the Parties shall draft the negotiated amendments to the Agreement.	Westbank First Nation, Canada	As agreed by the Parties
4. Westbank First Nation shall seek, from its Members, consent to the proposed amendment in accordance with any referendum procedures of the Westbank First Nation and procedures for ratification referred to in section 284.	Westbank First Nation,	As agreed by the Parties
5. Following Westbank First Nation ratification of amendments to the Agreement, Canada will seek amendment by way of Order-in Council.	Canada	As soon as practicable following WFN consent.

Planning Assumptions

- It is not the Parties intent to regularly amend the Agreement.
- Possible amendment proposals could arise by recommendation of the Implementation Committee or the five year review.

Legislative/Regulatory Amendments

Final Agreement Provisions:

299. This Agreement may be amended where consent of each Party is obtained. Westbank First Nation's consent to any amendment shall be obtained in accordance with any referendum procedures of the Westbank First Nation and any procedures for ratification referred to in section 284. Canada's consent to any amendment shall be by way of Order-in-Council.

Related Provisions: Schedule A

Communication Strategy

The purpose of this communication strategy is to provide for the effective communication of information about the content and implementation of the Westbank First Nation Self-Government Final Agreement.

The following are some specific activities having the potential to contribute to meeting the objectives of the Parties:

1. In order to assist in the effective implementation of the Westbank First Nation Self-Government Final Agreement, Westbank First Nation and Canada will conduct workshops or undertake other activities to ensure that their respective employees, agents and contractors are aware of and understand the impact of the Westbank First Nation Self-Government Final Agreement and the Implementation Plan for the Westbank First Nation Self-Government Final Agreement on the performance of their duties.
2. In order to promote awareness of the Westbank First Nation Self-Government Final Agreement among members of the public who are interested in or affected by it, Westbank First Nation and Canada will undertake activities to make public and explain the Westbank First Nation Self-Government Final Agreement and the Implementation Plan for the Westbank First Nation Self-Government Final Agreement. Westbank First Nation and Canada will consider using methods such as:
 - regular and/or special publications
 - computer-based information
 - public service announcements
 - news releases and communiques
 - public information meetings
 - workshops for public groups with specific interests

When the Parties are undertaking activities in support of this communications strategy they will, if they agree that it is desirable, conduct communications activities jointly.



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

Canada